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#2439

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 68-420-Cr-WM

UNITED STATES OF AMERICA,
Plaintiff,

vs.

ORLANDO BOSCH AVILA,
ANDRES JORGE GONZALEZ GONZALEZ,
BARBARO BALAN GARCIA,
RICO RODRIGUEZ RAMOS,
JOS DOMINGUEZ BENITEZ,
JOSE DIAZ MORESON,
JORGE LUIS GUTIERREZ ULLA,
PAULINO GUTIERREZ, and
JIMMIE MIRANDA CRUZ,

Defendants.

LAW OFFICES
DANIEL NEAL HELLER
1205 AINSLEY BUILDING
MIAMI, FLA. 33132

Transcript of proceedings at trial

Pages 1-500, inclusive (Volume I of III)

(including witness index)

LEONARD LAIKEN
OFFICIAL REPORTER U. S. DISTRICT COURT
FEDERAL BUILDING
MIAMI, FLORIDA 33101

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 68-420-Cr-WM

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORLANDO BOSCH AVILA, ANDRES
JORGE GONZALEZ GONZALEZ,
BARBARO BALAN GARCIA, MARCO
RODRIGUEZ RAMOS, JESUS
DOMINGUEZ BENITEZ, JOSE DIAZ
MOREJON, JORGE LUS GUTIERREZ
ULLA, PAULINO GUTIERREZ, and
AIMEE MIRANDA CRUZ,

Defendants.

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The North Courtroom,
United States District Court,
300 Northeast 1st Avenue,
Miami, Florida.
Tuesday, November 5, 1968.

The above-entitled matter came on for
hearing, pursuant to notice, commencing at 9:00
o'clock a.m.

BEFORE:

HON. W. O. MEHRTENS,
United States District Judge.

LEONARD LAIKEN

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

APPEARANCES:

**DONALD F. BIERMAN and THEODORE KLEIN,
Assistant United States Attorneys;**

and

**JAMES PHILIP MORRIS, ESQ.,
Special Attorney,
Department of Justice,
On behalf of the United States
Government.**

**MELVYN GREENSPAHN, ESQ.,
Appearing on behalf of the Defendants.**

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LEONARD LAIKEN

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
William James Killian	49	63	--	--
Sophia Saliba	74	--	--	--
H. W. Sandridge	82	--	--	--
Edgar Barrett, Jr.	103	106	--	--
David Morris Rich	110	113	--	--
Kenneth Morse Bernaw	117	125	--	--
Norbert Tinsley	128	131	--	--
Larry Stephen Hardin	135	139	145	146
Thomas Stickney	147	157	165	--
Joseph M. Boyett	167	176	--	--
Jose Pinson	185	188	191	--
Paul John Longley	198	206	--	--
Alphonso L. Popolato	212	220	--	--
Jose Pinson (resumed)	--	224	--	--
Ricardo Morales Navarette	236	346	418	426
Bernardo M. Perez	431	436	--	--
Harry Moseley	443	447	--	--
John C. Phelps	452	457	463	463
Joseph C. Ball	465	474	481	--
Benjamin P. Grogan	482	495	498	--
William E. Dowling	500	504	--	--
Joseph R. Marszalek	509	512	--	--
Marvin M. Eubanks	602	607	608	--
Coleman Geary	609	614	--	--
George Evan Davis, Jr.	615	625	647	651
Alfred Yeomans	655	658	--	--
David R. Cribbs	659	662	--	--
Thomas P. Toomey	667	672	--	--
Luis Garcia	675	677	681	--
Fred H. Hallbauer	682	688	--	--
Henry I. Martin	696	705	--	--
Robert Murray	713	716	--	--
Ricardo Morales Navarette	719	--	--	--
(recalled)				
Sophia Saliba	724	--	--	--
(recalled)				
Charles L. Killion	792	806	814	--
Edwin B. Zehnder	815	820	--	--
Fred N. Hendon	825	832	840	--
John Jaidinger	843	850	860	861
Margaretta Caballero	863	866	866	--
James P. Donnelly	867	871	876	--

4/15/69
witness

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OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

I N D E X (continued)

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Armando Garcia Siffredo	879	889	--	--
Antonio Garcia Ruiz	900	908	916	--
Tomas Pedro Regalado	918	--	--	--
Thomas G. Brodie	922	937	--	--
Joseph C. Frechette	964	--	--	--
Bernardo M. Perez	966	982	988	989
Michael E. Crane	991	993	--	--
Michael P. Doohar	994	1001	--	--
Edwin L. Sweet	1005	1010	--	--
John Menton	1013	1018	--	--
Charles L. Killion	1020	1029	1046	--
(recalled)				
Bruce E. Clinkscales	1053	1055	--	--
Dan A. Bailey	1057	1069	1075	--
Henry B. Heiberger	1078	1084	--	--
Leon LaRock	1091	1091	--	--
Thomas G. Brodie	1093	1095	--	--
(recalled)				
Tomas Pedro Regalado	1097	1101	--	--
(recalled)				
Sophia Saliba	1104	--	--	--
(recalled)				
O. D. McEachern	1151	1156	--	--
Evelio Bosch	1159	1166	--	--
Jose Diaz Morejon	1171	1201	--	--
Jorge Luis Gutierrez Ulla	1225	1235	--	--
Orlando Bosch Avila	1256	1312	1347	--
Alphonse Sepe	1387	1391	1394	--
Thomas James Stickney	1399	1403	1406	--
(rebuttal)				
George Evan Davis, Jr.	1407	--	--	--
(rebuttal)				

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

THE COURT: Mr. Reporter, please have the record show that I have called this preliminary hearing in case No. 68-420, United States of America v. Orlando Bosch Avila, et al., for the purpose of preliminary discussion. This hearing is being held in the North Courtroom outside of the presence of any prospective jurors.

MR. BIERMAN: Your Honor, at yesterday's hearing there was some question as to certain types of statements which the Government stated that it would not produce, but last evening we did produce copies of transcripts of tape recordings made between the Government and the informant and several of the defendants. We have made our transcripts and translations available to Mr. Greenspahn. And today, at the luncheon recess, he will be listening to the actual tapes which are in Spanish.

THE COURT: All right, sir. Then so far as you are concerned, Mr. Greenspahn, that has been taken care of?

MR. GREENSPAHN: Yes, sir.

THE COURT: Gentlemen, the Government has furnished me with a memorandum with respect to

trial procedure; and yesterday afternoon they gave you, I am sure, Mr. Greenspahn, a copy.

The Government takes the position, as I gather from their memorandum, that if the defense of entrapment is involved, then conceivably evidence with respect to the CIA involvement might be relevant and material. But other than that, they take the position that it has no relevancy or materiality and does not in any way constitute any possible defense with respect to the actual commission or non-commission of the alleged offense. What do you say about that?

MR. GREENSPAHN: Your Honor, the observations by the Court are quite correct as to the defense of entrapment.

Last night, when I was provided with the transcript of the tapes which concerned the witness Ricardo Morales, it became apparent and obvious that this witness is the principal witness for the Government, and the issue in this other applies to the existence of CIA participation in this entire procedure.

THE COURT: Let me note for the record that the defendants are not present at this time.

MR. GREENSPAHN: I will waive the presence of the defendants, in any event.

The credibility of the witness Ricardo Morales is going to be very much in issue, and the possibilities do exist that the CIA and his affiliation or connection with the CIA will become part of such impeachment testimony as may be elicited from him, your Honor, and I ask that I not be restricted in that regard.

At this point I am not prepared to indicate that there is any intention to bring in or to utilize any reference to the CIA other than in that reference, although I certainly do not want to waive the right to do so if it should become germane to these proceedings.

THE COURT: I am not asking you to and I do not want you to. I do not want, however, to have this trial to be replete with inferences and suggestions and a lot of unnecessary cross examination of witnesses, et cetera, so far as relevancy and materiality are concerned, unless, as I say, counsel makes a bona fide offer to me with respect to any evidence that he intends to put on. I do not intend

to permit that type of cross examination. ✓

MR. BIERMAN: Your Honor, we would have no objection to a complete and full cross examination of Mr. Morales in regard to his CIA affiliation which admittedly at one time did exist, but we would suggest that it be done initially outside the presence of the jury so that if it is shown that--we suggest it be shown that he has had no affiliation with them since 1965 and that this irrelevant matter would not come before the jury.

THE COURT: Well, I have no objection to passing on it in the first instance outside the presence of the jury. But as I say, I do not want this to get into a situation where there are a lot of questions and insinuations and inferences about the CIA or any other Government agency unless, as I say, it has some materiality.

I could see no materiality basically--and you correct me if I am wrong--except as it might possibly go to a defense of entrapment. Because, basically, if the Attorney General of the United States were to tell me to rob a bank, that would not constitute any defense. It would not be either

material or relevant whether I did or did not rob the bank. But I wanted to discuss that and get it straightened out.

Now, you gentlemen are all capable trial lawyers and I am going to expect each of you to adhere to the rules as well as you can and to proceed with promptness and dispatch.

The matters as they come up I will rule on them, and I am not trying to limit anybody in their method or mode of presentation, but I just do not want at this point to get into a whole field that may not have anything to do with this case at all.

All right, gentlemen. Is there anything else that any of you want to discuss in the way of procedure or possible evidence that we can dispose of now?

MR. BIERMAN: Your Honor, on the proposed jury voir dire questions, each side gave copies to the opposing side, and we do not know if the Court would hear objections on any of the opposing counsel's objections or his objections to our questions.

THE COURT: I will be glad to have you say anything you want to.

MR. BIERMAN: Question No. 8 of the defendants which reads, "Can you consider and weigh the evidence as a whole without giving special attention or priority to the evidence presented by the Government simply because such evidence is presented by the Federal Bureau of Investigation or another federal agency?"

We have no objection to the idea of that question, but we feel it should be in the terms of instructions by the Court.

THE COURT: In my proposed questions I do not intend to ask that question on voir dire. ✓
I shall, of course, instruct the jury, if and when the case is delivered to them, that the testimony of Government agents or police officers is to be weighed and considered under the same rules and circumstances as is applicable to any other witness and no more and no less weight is to be given to the testimony because of their official position.

I do not propose to go into it on voir dire.

MR. BIERMAN: And No. 9 relates to the same matter.

THE COURT: All right, sir.

Now, Mr. Greenspahn, is there anything you want to bring up?

MR. GREENSPAHN: Yes, sir, if the Court please. With reference to the proposed Government's questions on voir dire, referring to question No. 3, reading "Do you have any feelings that anyone has any right to take the law in his own hands--that is, to violate the laws of the United States--even if you believe that his motives are good?"

I submit that is an improper question. I think that the Court--and I have presumed this all along--will ask the proper question and that this is not a proper question because this creates an inference immediately prejudicial to the interest of these defendants. It is to No. 3 that I have my principal objection. I have no objection to the other questions that are asked or submitted by the Government. However, I think that that question, perhaps in its wording or perhaps in its concept, is an

improper question. I think the Court is going to ask about these very points in any event, but in a proper manner.

THE COURT: All right, sir.

Gentlemen, I do not have before me the questions I propose to ask from the lists submitted to me. And I am not certain and I do not believe that is in there, but I am not certain whether it is or not. In the event, however, that I should give it, I will note an objection and exception on the part of the defendants at this time.

MR. GREENSPAHN: Thank you, sir.

MR. BIERMAN: Just one point of information, your Honor. Yesterday you announced the hours that the Court intended to work. For the purpose of the witnesses' appearances I would be curious to know the Court's formula, at what point it plans to adjourn for lunch and at what time it will recess.

THE COURT: No, sir, I haven't. But I very probably will recess from about twelve o'clock, depending, of course, on the situation as it exists. But I just cannot say twelve o'clock. If you have a

witness on the stand that you need to ask maybe two or three more questions and you are through with him, then I will recess for lunch in the neighborhood of around twelve o'clock. Normally, unless I feel that the case is dragging, I will recess until one-thirty. And if I get the feeling that the case is dragging, I may very well recess from twelve o'clock to one o'clock. But unless I do, why, the normal recess will be from around twelve to one-thirty.

MR. BIERMAN: And in the announcement by the Court, we would work daily. Does the Court intend to include Saturdays and Sundays?

THE COURT: No, sir.

MR. BIERMAN: Is there any pre-disposition to work on Veterans Day, the 11th?

THE COURT: Well, let us do this, gentlemen: Let us wait until Monday and then we will discuss that on Monday.

MR. BIERMAN: Monday is Veterans Day.

THE COURT: Then we will discuss it Friday. But as I say, unless this case starts dragging along, I do not have any intention, certainly at the present time, of working on the weekends or at

night. But if it gets to where it is dragging slowly and nobody is making any progress, we are liable to find our hours from 9:00 a.m. to 11:00 p.m. But that is just something that I do not intend to do now unless I feel that we are just getting hopelessly slowed down and we are going to have to put in the extra hours in order to keep up with the schedule.

Basically, I am not inclined at the present time, unless there is some serious objection by one of you gentlemen, to hold court on the 11th. But we will wait until Friday and then we will see what the situation is and we will make up our minds then. My present feeling is that it will not be necessary to do those things, but we will see where we are and then we will decide it. I would rather not do it if I do not feel that I have to.

MR. BIERMAN: For the record, we would state that last night we delivered to Mr. Greenspahn all of the Jencks Act statements which we have available for our Western Union witnesses today.

THE COURT: All right, sir. Fine. And I would like for you to repeat that as we go from day to day, because I want him to have the Jencks Act

statements tonight of the witness you propose to call tomorrow. If there is any special problem or anything of that sort, then you gentlemen come to me and I will straighten it out outside the presence of the jury. But I would prefer that he receive them from the Government tonight.

I realize sometimes you get a situation where perhaps you may have to call a witness unexpectedly or something of that sort; and I think that is equally applicable to either side. But I do not want, if it possibly can be avoided, any problem about Jencks Act statements once the trial starts.

MR. BIERMAN: Thank you, your Honor.

THE COURT: Gentlemen, I have just been reminded that on Friday morning, since this is my term of criminal court, I have arraignments and sentences. So on Thursday I will have to recess this case until eleven o'clock Friday. If I should forget on Thursday evening and say "Nine o'clock Friday," somebody remind me, because it will take about two hours, actually, to get rid of the arraignments and sentences. And then we will start at eleven o'clock on Friday. I'm sorry, gentlemen,

but there is just nothing that I can do about it.

MR. BIERMAN: Should we tentatively plan to go a little bit later Friday evening or what?

THE COURT: We can plan on it tentatively.

Now, if there is nothing else, we will adjourn to the Central Courtroom. We will adjourn this hearing and start in the Central Courtroom as soon as the jurors are all in there.

I think that is the only room that is sufficiently large to accommodate the jurors and spectators.

(Thereupon a short recess was taken, pursuant to which the hearing reconvened in the Central Courtroom, at which time the following proceedings were had:)

THE COURT: Good morning again, ladies and gentlemen. We have set for this morning the trial of case No. 68-420, which is styled United States of America versus Orlando Bosch Avila, Andres Jorge Gonzalez Gonzalez, Barbaro Balan Garcia,

Marco Rodriguez Ramos, Jesus Dominguez Benitez, Jose Diaz Morejon, Jorge Lus Gutierrez Ulla, Paulino Gutierrez, and Aimee Miranda Cruz.

Are all the defendants personally present in Court?

MR. GREENSPAHN: The defendants are all present, your Honor.

THE COURT: Will counsel please announce their appearances for the record?

MR. GREENSPAHN: Melvyn Greenspahn, 704 Ainsley Building, for each of the named defendants.

MR. BIERMAN: Donald Bierman, Assistant United States Attorney; Theodore Klein, Assistant United States Attorney, and James P. Morris, Special Attorney of the Department of Justice, for the Government.

THE COURT: Mr. Clerk, will you please administer the preliminary oath to the prospective jurors?

(Thereupon the prospective jurors were sworn, pursuant to which the following proceedings were had:)

MR. BIERMAN: Your Honor, we would note for the record that the defendants have with them their own interpreters.

THE COURT: All right, sir. Fine. Does the Government have an interpreter?

MR. BIERMAN: We will, when needed, your Honor.

THE COURT: All right, sir. Will the Marshal please fill the jury box?

(Thereupon the names of twelve jurors were called, pursuant to which the following proceedings were had:)

THE COURT: Now, ladies and gentlemen, if all of the prospective jurors whose names have not been called will listen to what I have to say about this case and the questions which I ask the jurors in the box and the answers which they give me, we may perhaps save some repetition of questions.

Before I start making any statements, as you were told when you were first called for jury duty, the right to a trial by jury derives from the

Magna Carta as one of the bulwarks of our liberties preserved by our Anglo-Saxon ancestors and by the Fathers of the Revolution.

Our country is traditionally committed to the doctrine that no matter what the charge may be, an accused person has the right to a fair and impartial trial by a jury of his peers. The policy of the law in all cases in which jurors are impaneled for trial to try a case is to secure men and women for that responsible duty whose minds are wholly free from bias or prejudice either for or against the accused or for or against the Government.

We seek, therefore, to obtain as jurors persons who have not made or expressed any fixed opinion as to the guilt or innocence of any of the accused and who can and will decide the case impartially, based solely upon the evidence which they hear from the witness stand and the court's instructions as to the law which is applicable.

It will be necessary for the Court to ask some questions of the jury, and I wanted to make that statement to make it plain what the purpose of those questions is. We do not seek to pry into your

personal affairs, but certain questions do have to be asked and certain statements do have to be made in order that the Court and counsel can feel assured that there is a fair and impartial jury which has been selected to try the case.

This is a criminal case and it comes before you by virtue of an indictment. The indictment reads as follows:

"UNITED STATES OF AMERICA

"v.

"ORLANDO BOSCH AVILA

"a/k/a Ernesto

"ANDRES JORGE GONZALEZ GONZALEZ

"a/k/a Bombillo

"BARBARO BALAN GARCIA

"a/k/a Bobby

"MARCO RODRIGUEZ RAMOS

"JESUS DOMINGUEZ BENITEZ

"a/k/a El Isleno

"JOSE DIAZ MOREJON

"a/k/a Tony Prieto

"JORGE LUIS GUTIERREZ ULLA

"a/k/a George Gutierrez

"PAULINO GUTIERREZ

"AIMEE MIRANDA CRUZ

"The Grand Jury charges:

"COUNT I

"That from on or about April 15, 1968,
up to and including the date of this
indictment in the Southern District of

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Florida and elsewhere the defendants,

"ORLANDO BOSCH AVILA, a/k/a Ernesto,

"ANDRES JORGE GONZALEZ GONZALEZ,
a/k/a Bombillo,

"BARBARO BALAN GARCIA, a/k/a Bobby,

"MARCO RODRIGUEZ RAMOS,

"JESUS DOMINGUEZ BENITEZ, a/k/a El
Isleno,

"JOSE DIAZ MOREJON, a/k/a Tony Prieto,

"JORGE LUIS GUTIERREZ ULLA, a/k/a
George Gutierrez,

"PAULINO GUTIERREZ, and

"AIMEE MIRANDA CRUZ,

unlawfully, wilfully and knowingly did
conspire with each other, and with divers
other persons to the Grand Jury unknown,
to violate the laws of the United States,
to-wit: Title 18, United States Code,
Section 2275, in the manner and by the
means hereinafter set forth:

"1. It was the plan of said conspiracy
to violate Title 18, United States Code,
Section 2275, by knowingly and wilfully

causing damage to vessels of foreign registry docked at the Port of Miami, Dodge Island, in the Southern District of Florida within the jurisdiction of the United States, and elsewhere, by placing explosives in or upon said vessels with the intent of injuring and endangering the safety of the said vessels and their cargo.

"2. It was a part of said conspiracy that the said defendants and co-conspirators would collect money for the purchase of explosives and equipment to be used in the placement of said explosives on vessels. As a part of the plan to raise money publicity of the explosions accomplished would be sought.

"3. It was a part of the said conspiracy that the said defendants and co-conspirators would gather explosives and assemble and prepare weapons and other equipment to be used in causing damage to vessels of foreign registry.

"4. It was further a part of said

conspiracy that some of the defendants and co-conspirators would train and receive training in underwater demolition.

"5. It was also a part of said conspiracy that said defendants and co-conspirators would fire and cause to be fired a 57 mm. recoilless rifle at a vessel of foreign registry docked at Dodge Island in the Southern District of Florida within the jurisdiction of the United States.

"6. It was part of said conspiracy that the said defendants and co-conspirators would assemble bombs and cause them to be attached to vessels of foreign registry.

"In pursuance and furtherance of said conspiracy and to effect the objects thereof the defendants did commit in the Southern District of Florida within the jurisdiction of the United States, and elsewhere, the following overt acts among others:

"1. On or about August 13, 1968, at 1150 S. W. First Street, Miami, Florida,

Orlando Bosch Avila and Jose Diaz Morejon, defendants herein, received a package labeled 'Dynamite.'

"2. On or about August 22, 1968, defendants Orlando Bosch Avila, Barbaro Balan Garcia and Jorge Luis Gutierrez Ulla met with Ricardo Morales Navarrete at 735 S. W. First Street, Miami, Florida.

"3. On or about August 27, 1968, Orlando Bosch Avila communicated instructions to Ricardo Morales Navarrete.

"4. On or about August 27, 1968, Marco Rodriguez Ramos and Jesus Dominguez Benitez engaged in a conversation with each other at 735 S. W. First Street, Miami, Florida.

"5. On or about September 15, 1968, Orlando Bosch Avila, Barbaro Balan Garcia, Jose Diaz Morejon and Aimee Miranda Cruz met together at 218 S. W. 16th Avenue, Miami, Florida.

"6. On or about September 15, 1968, Orlando Bosch Avila and Paulino Gutierrez

traveled from 1029 S. W. First Avenue to the west end of the MacArthur Causeway in Miami, Florida.

"7. On or about September 16, 1968, Jorge Luis Gutierrez Ulla drove an automobile on and in the vicinity of the MacArthur Causeway in Miami, Florida.

"8. On or about September 16, 1968, Barbaro Balan Garcia and Jose Diaz Morejon fired a 57 mm. recoilless rifle at the vessel SS Polanica at Dodge Island, Dade County, Florida.

"9. On or about September 30, 1968, Orlando Bosch Avila, Andres Jorge Gonzalez Gonzalez, Jose Diaz Morejon, Jorge Luis Gutierrez Ulla and Paulino Gutierrez attended a meeting of 'Cuban Power' at the Jose Marti Building in Miami, Florida.

"All in violation of Title 18, United States Code, Section 371.

"COUNT II

"On or about September 16, 1968,

"ORLANDO BOSCH AVILA, a/k/a Ernesto,

"BARBARO BALAN GARCIA, a/k/a Bobby,
and

"JOSE DIAZ MOREJON, a/k/a Tony Prieto,
defendants herein, knowingly, wilfully, and
unlawfully, and with the intent to injure
and endanger the safety of the vessel,
SS Polanica, a vessel of foreign registry,
to-wit: Poland, did fire a 57 mm. rifle
at said vessel, causing an explosive missile
to strike the said vessel at Dodge Island,
Dade County, Florida, in the Southern
District of Florida within the jurisdiction
of the United States; in violation of
Title 18, United States Code, Section 2275.

"COUNT III

"On or about June 6, 1968, at Miami,
Dade County, in the Southern District of
Florida,

"ORLANDO BOSCH AVILA, a/k/a Ernesto,
wilfully and knowingly through the use of
telegraph did convey and cause to be
conveyed a threat to Gustavo Diaz Ordaz,
President of Mexico, to damage and destroy

personal property, to-wit: Mexican ships and planes, for the purpose of interfering with their use for business objectives, and of intimidating persons pursuing said business objectives; in violation of Title 18, United States Code, Section 837(d).

"COUNT IV

"On or about June 6, 1968, at Miami, Dade County, in the Southern District of Florida,

"ORLANDO BOSCH AVILA, a/k/a Ernesto, wilfully and knowingly through the use of telegraph did convey and cause to be conveyed a threat to General Francisco Franco to damage and destroy personal property, to-wit: Spanish ships and planes, for the purpose of interfering with their use for business objectives, and of intimidating persons pursuing said business objectives; in violation of Title 18, United States Code, Section 837(d).

"COUNT V

"On or about June 6, 1968, at Miami, Dade County, in the Southern District of Florida,

"ORLANDO BOSCH AVILA, a/k/a Ernesto, wilfully and knowingly through the use of telegraph did convey and cause to be conveyed a threat to Sir Harold Wilson, Prime Minister of England, to damage and destroy personal property, to-wit: British ships, for the purpose of interfering with their use for business objectives, and of intimidating persons pursuing said business objectives; in violation of Title 18, United States Code, Section 837(d)."

Now, ladies and gentlemen, to that indictment each of the defendants has pleaded not guilty, and that will raise the issues of fact which will have to be tried in this case.

Preliminarily the Court will instruct you, although at the conclusion of the trial I will give much more detailed instructions, that under the law of the United States every person charged with a crime is presumed to be innocent unless and until the

Government has proven to the satisfaction of the jury beyond a reasonable doubt their guilt. Further, the bringing of an indictment is merely a formal method of advising a person or persons that they have been accused of a crime. And it itself is no evidence whatsoever of guilt nor does the indictment permit any inference of guilt. It is merely a means by which a person is notified that they have been charged and brought into court. It has no weight as evidence whatsoever.

Will counsel for the Government introduce themselves and the Government's representatives?

MR. BIERMAN: Donald Bierman,
Assistant United States Attorney.

MR. KLEIN: Theodore Klein, Assistant
United States Attorney.

MR. MORRIS: James P. Morris, Special
Attorney, Department of Justice; and Michael Crane,
a Special Agent of the Federal Bureau of Investigation.

THE COURT: Will counsel for the
defendants enter his appearance and the defendants to
the jury, please?

MR. GREENSPAHN: Yes, sir.

Ladies and gentlemen, my name is Melvyn Greenspahn, and in order here are Jorge Luis Gutierrez Ulla, Orlando Bosch Avila, Marco Rodriguez Ramos, Aimee Miranda Cruz, Paulino Gutierrez, Barbaro Balan Garcia, Jose Diaz Morejon, Jesus Dominguez Benitez, Andres Jorge Gonzalez Gonzalez.

Those, your Honor, are the defendants.

(Thereupon, pursuant to voir dire of the jury, a jury of twelve and two alternates were sworn, pursuant to which the following proceedings were had:)

THE COURT: Gentlemen, may it be stipulated by counsel that unless it is otherwise shown in the record, the defendants, their counsel, and the jury are present in the courtroom?

MR. GREENSPAHN: Yes, sir. So stipulated.

MR. BIERMAN: Yes, sir. And can we also ask that the stipulation include the fact that the interpreter is present?

THE COURT: Is that agreeable to you, Mr. Greenspahn?

MR. GREENSPAHN: Yes, sir, certainly.

THE COURT: Ladies and gentlemen, I am about to call a short recess, after which we will start with the trial of this case. During this case there will be recesses from time to time. The instructions which I am about to give you will be applicable at each and every recess. If I do not repeat them, they are still applicable.

The jury is admonished not to converse or communicate among yourselves nor with anyone else upon any subject matter relating to this suit or any of the defendants. You are not to attempt to form or express any opinion whatsoever until such time as all of the evidence has been heard. And until the Court has instructed you on the law and you have heard the arguments of counsel. There is a very good reason for that latter rule because, as I say, while you are the sole and exclusive judges of the facts, you have to apply to those facts the law which the Court tells you is the applicable law. And until you hear the law you are just not in any position to try to form any

opinion. So keep your minds open until such time as the case is delivered to you for your deliberation and decision.

You are further admonished and instructed not to read, listen to or observe any news media or television media, if there should be any, about this case or any of the persons involved. Again, there is a very sound reason for that. What you will hear in this case will be the evidence which comes before you. And some newspaper reporter's idea of what has happened or some television reporter's idea of what happened is not always correct. Therefore, you are cautioned and instructed not to read or observe any news media about it. Decide this case solely upon the evidence which you hear in this courtroom.

Does everybody think they can do that?

(The jury indicates in
the affirmative.)

THE COURT: All right. You are further instructed and admonished not to permit any third person in your hearing or presence to discuss any subject matter relating to this suit or any of the

defendants. And should any such person attempt to do so, you will immediately report it to the Court.

Does everybody understand those instructions?

(The jury indicates in the affirmative.)

THE COURT: They will be applicable at each and every recess.

All right. The Court will be in recess for about five minutes, ladies and gentlemen.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

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THE COURT: Now, ladies and gentlemen, you who have come into the courtroom as spectators, the Court wants to advise you that this is a United States District Court lawfully called for the purpose of holding this trial. This trial will be conducted with decorum and with dignity; and the Court will not tolerate any talking or any outbursts or any demonstrations of any nature whatsoever. Should that take place, the Court will be prone to hold the

person doing it in contempt of Court. So I want to warn you now that we are going to proceed in an orderly fashion.

All right. Does the Government have an opening statement it desires to make?

MR. KLEIN: Yes, sir, your Honor.

THE COURT: You may proceed.

OPENING STATEMENT BY MR. KLEIN

MR. KLEIN: Ladies and gentlemen of the jury, it is now my opportunity to briefly outline to you at the outset of the case what we expect the Government's proof to show.

I am sure you are all familiar with a child's jigsaw puzzle and I am sure you are familiar with the box it comes in. That often has a picture on the top of the box of what the pieces will comprise. It is my object here to briefly outline to you what that picture will be; just to map out the general areas of the picture and the pieces inside the box, the pieces of the jigsaw puzzle, which will be the testimony and the exhibits that are offered into evidence, and together they will connect, and I am sure you will see that they connect to make the

picture that is on top of the box.

First, we have the indictment which his Honor has read to you, and I would like to go into this just a little bit. This is a five-count indictment that we have. The first count is a conspiracy count against all nine of the defendants. You heard their names. You will hear them again and again throughout the trial, and you will become more familiar with them. Some of these names that you will hear--you will hear them by other names other than the ones that are mentioned specifically in the indictment. For example, Andres Jorge Gonzalez Gonzalez will be known as Bombillo. Barbaro Balan Garcia will be known as Bobby. You will hear Jesus Dominguez Benitez also referred to as El Isleno. Jose Diaz Morejon also will be known as Tony Prieto.

Now, referring to the first count, just generally, it was the plan in this conspiracy as you will hear to place explosives on vessels of foreign registry here in Miami and in other ports. The plan also in this conspiracy was to raise money and to publicize these explosions. The plan of conspiracy, in addition to that, was to gather

explosives and prepare weapons, and some of the defendants and some of these co-conspirators were to receive training in underwater demolition. The plan also included the firing of a 57 millimeter recoilless rifle at a Polish vessel, the POLANICA. There was also a plan to attach bombs to vessels of foreign registry; and in furtherance of these objectives of this conspiracy, the defendants committed a number of overt acts which you will hear about in the way of testimony. That is what the first count is about.

Now, the second count charges just three of these defendants. The three that are charged are Barbaro Balan Garcia, Orlando Bosch, and Jose Diaz Morejon, also known as Tony Prieto, with firing on the POLANICA on September 16th at Dodge Island with a 57 millimeter recoilless rifle. That is the second count.

The third, fourth and fifth counts are against Orlando Bosch alone. These are very similar counts. They charge him with sending threatening telegrams to the heads of three foreign countries, namely, Mexico, Spain and England.

Those are the five counts of the indictment. The first is the conspiracy count against all nine, the second concerns the firing of the 57 millimeter rifle by Bosch, Balan and Morejon (also known as Prieto) and in the third, fourth and fifth count it concerns telegrams against Bosch alone.

Now, the Government's proof first will be on the telegrams, and that is what I will go into first, that being on the third, fourth and fifth counts. The evidence will show that on June 6, 1968, Orlando Bosch went to the Western Union office here in Miami and sent three telegrams. One was to the President of Mexico, threatening to blow up Mexican ships and planes. The telegram, which was pretyped, was signed "Ernesto, General Delegate, Cuban Power."

The second telegram was to the President of Spain, also threatening to blow up Spanish ships and planes, again signed "Ernesto, General Delegate, Cuban Power."

And the third telegram was to Prime Minister Harold Wilson of England, with a similar

threat and with the additional threat that British blood would flow if trade did not cease, with a similar signature, "Ernesto, General Delegate, Cuban Power."

And in addition, this telegram to Harold Wilson also claimed credit for an explosion which had already occurred aboard a ship under British Registry, which was called the GRANWOOD. You will hear more about that ship later. This occurred on June 6, 1968, the sending of those telegrams. The GRANWOOD, which had already had an explosion, occurred on May 4, 1968. The evidence will show that the GRANWOOD had an explosion aboard ship while it was in Key West, Florida. The evidence will also show that this ship, the GRANWOOD, had been docked here in Miami before going to Key West, and the evidence will also show that as part of the plan, this conspiracy, a press release was sent about June 5 or so to the newspapers locally, claiming credit for the GRANWOOD explosion by this group known as Cuban Power, by "Ernesto, General Delegate, Cuban Power."

In that release that was sent to the

newspapers, there was also a claim for credit for another explosion which occurred during the month of May. Besides the GRANWOOD there was an explosion aboard a vessel known as the ASAKA MARU. This was a Japanese vessel, and this explosion occurred in Tampa about May 30th. The evidence will show that that particular vessel, the ASAKA MARU, was here in Miami about May 26th.

You will also hear testimony of a man named Ricardo Morales Navarette. "Navarette," I am sure you know, is the mother's maiden name. He will be referred to most of the time as Ricardo Morales.

Ricardo Morales, in common parlance, was an informant for the Government. He received compensation from the Government.

Now, Ricardo Morales had numerous meetings and conversations with Orlando Bosch and with many of the other defendants. You will hear about a conversation. You will hear Mr. Morales' testimony and you will hear about a conversation in which Orlando Bosch admitted that the GRANWOOD and the ASAKA MARU explosions were his work and the work of his group, and he explains how the GRANWOOD

explosion was done, how the bomb was chained onto the vessel.

He will also admit, you will hear from the testimony of Ricardo Morales, that he sent press releases using the name "Ernesto" about these explosions.

You will hear another conversation from Ricardo Morales later in which Bosch admits responsibility for still a later explosion aboard another British ship known as the CARIBBEAN VENTURE. The actual proof on the CARIBBEAN VENTURE will be later on in the trial, but I mention this now because the testimony of Ricardo Morales, which you will hear earlier in the trial, will go into this. The CARIBBEAN VENTURE you will hear about later. That was a ship that had an explosion while it was here in Miami on August 4. Now, in that particular explosion on the CARIBBEAN VENTURE, some clips from chains and chain fragments were recovered in the explosion area. Again, Cuban Power issued a press release after this, claiming credit for that bomb.

You will hear testimony about two other bombs later in the proof which comes up in some

of these conversations between Ricardo Morales and some of the other defendants. One was aboard another Japanese vessel called the MIKAGESAN MARU. The MIKAGESAN MARU had an explosion in Galveston, Texas, on June 1, and the evidence will show that that ship, also, was here in Miami prior to going to Galveston.

The evidence will show that a press release again was sent, and a photograph of the MIKAGESAN MARU was sent to the papers, and on the photo, typed across the top, which was sent, was a legend in Spanish translating roughly into English, "Courtesy of Intelligence Service of Cuban Power." And this will be important later for reasons that you will see.

The other ship that you will hear about is a Spanish ship, the COROMOTO, which had an explosion in Puerto Rico about September 12.

Now, there are two other ships that are involved in this conspiracy which I am going to go into slightly greater detail. You will hear the testimony of Ricardo Morales that Orlando Bosch asked Ricardo Morales to get him some explosives in order to carry on his bombing activities. Ricardo

Morales advised the FBI about this fact that Orlando Bosch wanted these explosives, and the FBI, for the purpose of saving lives and for the purpose of saving property and cargo, had specially prepared dynamite furnished to Ricardo Morales. This specially prepared dynamite was simulated or dummy dynamite consisting mostly of table salt, cornstarch, rye flour and motor oil, a totally non-explosive combination. This dummy dynamite was given to Ricardo Morales to supply to Bosch. It was done on a number of occasions.

You will hear that about four or five of those times that was done in order to transfer to these vessels. You will hear about the involvement of some of these other defendants in the taking of this dynamite and in the transferring and in the transportation of it. You will hear about Jesus Dominguez Benitez who also will be referred to as El Isleno. You will also hear about Jose Diaz Morejon, also known as Tony Prieto. And Barbaro Balan Garcia, also known as Bobby, and you will hear about Jorge Gutierrez and Marco Rodriguez Ramos.

Now, when these transfers of dynamite

were made, that was all that was seen of this simulated dynamite for the time being. But then you will hear testimony later about a bomb being discovered chained to the underside of a British ship which had not exploded aboard the British ship underneath. That British ship was the LANCASTRIAN PRINCE which was here in Miami about August 28th. Divers went down, demolition men took over, the bomb was recovered from the underside of the ship and it was disassembled, and you will see that bomb. And inside it was the very same simulated dynamite which had been supplied to Ricardo Morales to give to Orlando Bosch. Besides that, there was a detonator which you will hear more about, and inside the bomb, packed inside besides the dynamite was a homemade gasket to keep the water from entering the bomb. The gasket was made out of gasket paper which bears a trade label "Tanpac" and also stuffed inside were pieces of foam rubber used as stuffing for the bomb. You will hear more about these later. They will become important for reasons that you will see.

You will also hear that this vessel, the LANCASTRIAN PRINCE, before coming here to Miami,

was in New Orleans. This is important because inside the bomb also besides the stuffing and the dynamite, et cetera--used for stuffing were two newspapers. One was a New Orleans newspaper and one was a Miami Herald, and on the New Orleans newspapers, which were sent to the FBI laboratory, were the palm prints of two of the defendants--the prints of Jorge Gutierrez and Marco Ramos. This bomb did not explode. Apparently he did not realize it would not. A mistake was made, but nevertheless a press release was issued to the local newspapers claiming credit in the same manner for the same scheme, et cetera, for the explosion aboard the LANCASTRIAN PRINCE.

Now, the other vessel about which I said I was going into greater detail was the POLANICA. You will hear Ricardo Morales' testimony. Then he will go into the actual shelling of the POLANICA with the 57 millimeter rifle here in Miami at the Dodge Island Seaport. You will hear testimony that Ricardo Morales was called by Bosch to help assemble a 57 millimeter recoilless rifle. Ricardo Morales and Bosch went along with two of the other defendants--Barbaro Balan and Jose Diaz (also known as Tony Prieto)

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and they went to Aimee Miranda Cruz' apartment where the gun was assembled. Miss Cruz is the sole female defendant here. Ricardo Morales used his own pliers in the apartment of Aimee Miranda to cut a coat hanger there in the apartment to make a sight for the gun. Ricardo Morales left out two bolts and a spring when he reassembled the gun. These were left in Aimee's apartment, and he also left his own tools, his pliers and his wrench, et cetera. Then Balan and Diaz went their separate ways from there, and Morales and Bosch went and picked up Paulino Gutierrez and they went to the MacArthur Causeway after a few meetings and conversations, et cetera, that you will hear about.

Balan and Diaz were already set up on the causeway across the channel from the POLANICA, and Paulino Gutierrez, Ricardo Morales and Orlando Bosch went and waited for the shot at the Miami Herald end of the causeway. Jorge Gutierrez then came along, and you will hear about his connection in that.

Subsequently the POLANICA was fired upon and hit. The rifle was dumped into the water and

later the FBI recovered the actual rifle which was used and which you will see; also the spent shell and the shell casing along the causeway.

After that, later, Ricardo Morales, a few weeks later, went back to Aimee's apartment and got his pliers back. You will also hear testimony of some of the FBI agents that some of these meetings along the way were being observed by them in various manners.

Now, while they were unable to make out exactly what was going on, you will hear the testimony which tends to corroborate the testimony of Ricardo Morales. He went to that apartment and he got his pliers back, and these were sent up to the FBI laboratory which compared the flat edge on the pliers with the edge of the coat hanger on the gun, and you will hear about the result of that test. Then you will also hear about some press releases which I have mentioned before, that were made with regard to these various explosions, including the furnishing of many photographs of many of these vessels. You will also hear about a news conference held by a man supposedly calling himself Ernesto,

wearing a hood and appointing Orlando Bosch as head of Cuban Power. And then you will hear about a later news conference by Orlando Bosch accepting the appointment as the head of Cuban Power.

And then finally you will hear from some men from the FBI laboratory who will give the results of some of the tests that they made, which I have mentioned earlier.

This is what the Government's proof, in essence, will contain, ladies and gentlemen. And I think you will agree that when you hear it, these little pieces of the jigsaw puzzle connecting together do make a total picture on the cover of this box, I think that you will agree that the Government has proved its case beyond a reasonable doubt.

THE COURT: Thank you, sir.

Does the defense desire to make an opening statement or do they desire to reserve it?

MR. GREENSPAHN: Your Honor, the defense desires at this time to reserve its opening statement.

THE COURT: All right, sir. You may.
The Government will call its first

witness.

MR. GREENSPAHN: Could we ask that the exclusionary rule be invoked?

MR. BIERMAN: We will agree, but we ask for an exception of Agent Crane.

THE COURT: Ladies and gentlemen, at the request of counsel, the Rule has been invoked, which means this: All persons who were subpoenaed or who expect to be called as witnesses in this case will please retire from the courtroom at the conclusion of these instructions. Until such time as you yourself have been called and testified, you will remain out of the hearing and earshot of any witnesses who have testified or who are testifying.

Furthermore, you are not to discuss anything relating to your testimony or this case or the parties involved except with the lawyers in the case; nor are you to permit any third person to discuss anything pertaining to the alleged facts of this case or the individuals involved in your presence until such time as you are called to appear as a witness. All prospective witnesses will now please retire from the courtroom.

(Thereupon the prospective witnesses were excused from the courtroom.)

MR. BIERMAN: Mr. Regalado is with the press and he is under Government subpoena. We have no objection to him remaining if Mr. Greenspahn does not. However, I want to point out that he may be called.

There is also another gentleman from the Associated Press who is not here at this time but would like to be here if he could be excused from the Rule.

THE COURT: All right, sir. What do you say, Mr. Greenspahn?

MR. GREENSPAHN: I have no objection to Mr. Regalado, and I would inquire of the Government as to whom they have reference when they mention the Associated Press.

MR. BIERMAN: Mr. Ted Ettinger.

MR. GREENSPAHN: I would have no objection to that at this time.

THE COURT: Fine. The Government may proceed and call its first witness.

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THEREUPON--

WILLIAM JAMES KILLIAN,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is William James
Killian, K-i-l-l-i-a-n. My address is 115 Calabria,
Coral Gables, Florida. I am employed by the Western
Union Telegraph Company as an administrative
assistant.

THE COURT: Will you please talk a
little bit louder than you normally do? And, ladies
and gentlemen of the jury, if any of you have diffi-
culty in hearing any of the witnesses, if you will
advise me, I will have them speak loud enough so that
you can hear them clearly.

You may proceed.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Killian, how long have you been

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employed in your present position?

A Approximately three and a half years,
sir.

Q Approximately how long have you been
employed by the Western Union Telegraph Company, sir?

A Approximately nineteen years, sir.

Q In your present position, do you have
the custody of any of the business records of the
Western Union Telegraph Company?

A Yes, sir.

MR. MORRIS: May I have these three
documents marked as Government's exhibits?

THE COURT: The Clerk will please mark
them as Government's exhibits for identification.

(Thereupon the documents
referred to were marked as
Government's Exhibits Nos. 1,
2 and 3, respectively, for
identification.)

BY MR. MORRIS:

Q Mr. Killian, I am going to show you
Government Exhibits for Identification Nos. 1, 2 and

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3 and ask you to state whether or not you can identify these. Just answer yes or no, please.

A Yes, sir.

Q Will you state whether or not these are business records of the Western Union Company in Miami?

A Yes, sir, they are.

Q And are these records within your custody, sir?

A Yes, sir.

Q I show you Government's Exhibit for Identification No. 1 and ask you to state what that is, please.

A This is a cablegram, sir; a deferred service cablegram filed in our office in Miami.

Q Can you state when the telegram was filed?

A Yes, sir.

Q And how are you able to do that?

A It was filed on June 6th at 10:24 p.m., and our cancelling stamp--I can state that because when it is filed, the accepting clerk timed and dated

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the telegram by a process of a stamp that shows on the face of it, sir.

Q Would you point out to the jury and show where that time stamp is?

A (Indicating)

THE COURT: Please point it out to the jury. I do not want to see it. I can read it myself.

THE WITNESS: Yes, sir. It is just at the top of the telegram, and it is recorded here in black ink.

BY MR. MORRIS:

Q Are there any other markings or identifications on that telegram which would indicate whether or not the telegram had been transmitted?

A Yes, there is.

Q What is that?

A At the time a message is actually sent to a sending or transmitting position, the sending operator immediately, after transmission, again records the time and date of that transaction by an automatic timing and dating stamp. And that does appear on here, sir.

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Q Would you point that out to the jury, please?

A Yes, sir. It's in red ink and it is lower on the message, on the body of the message.

Q I notice that that exhibit has some sort of a writing across the top which appears to be in ink. Would you explain what that is?

A Yes, sir. The accepting clerk--that is, the counter clerk who did accept the message--records certain details at the counter, and at the time of acceptance--those details are specific in this case.

MR. GREENSPAHN: Pardon me. Your Honor, this gets into the realm of hearsay and it is not the best evidence.

THE COURT: I will sustain the objection to the remainder of the answer of the witness.

MR. GREENSPAHN: Thank you.

BY MR. MORRIS:

Q Mr. Killian, does this telegram that you have identified indicate to whom it is addressed?

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A Yes, sir, it does.

THE COURT: I will sustain my own objection. The telegram speaks for itself if and when it is put in evidence.

MR. MORRIS: All right, sir.

BY MR. MORRIS:

Q Mr. Killian, I now show you Exhibit No. 2 for identification and ask you whether you can make any further identification with respect to whether or not there are any markings on it which would indicate to you whether or not it was received and sent by Western Union.

MR. GREENSPAHN: If it please the Court, the same objection is rendered at this time. The markings thereon are conclusions on the part of the witness.

THE COURT: I will overrule the objection insofar as it is part of the normal and customary business procedure to place these stamps on there. For the purpose of clarifying what they are and explaining them to the jury, I will permit the witness to answer the question.

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A Well, there is one additional identification. Each message or all messages transmitted are transmitted under an identification number, and this particular message does have such a number on it. It is 066A, and that means simply this: On that day and on this particular channel, which was the A transmission channel, it was our 066th message of the day. The identification number is in red and it appears on the face of the message.

BY MR. MORRIS:

Q Are you able to determine, by examining this exhibit for identification, when this message was received by Western Union?

A Yes, sir.

Q When was that, sir?

A 10:23 p.m. on June 6th it was filed at our counter and received by us.

Q Is there any marking on there which indicates whether or not that message was transmitted by Western Union?

A Yes, sir, it was.

MR. GREENSPAHN: Objection, your Honor.

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That marking would be better expressed by the person who made the marking. And the instrument speaks for itself.

THE COURT: Objection overruled.

BY MR. MORRIS:

Q You may answer.

A Yes, sir. The red time and date stamp placed on there by the sending operator at the conclusion of this transmission does appear on the face of this.

Q I now show you Government's Exhibit for Identification No. 3 and ask you whether or not that bears any markings which would indicate when and where that telegram was received by Western Union.

A Yes, sir, it does. Once again it has the--

THE COURT: It has the same stamp on it as the others do, does it not?

THE WITNESS: Yes, sir.

THE COURT: All right. Proceed to something else.

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BY MR. MORRIS:

Q Mr. Killian, I now show you Government's Exhibit for Identification No. 4 and ask you whether you can determine, by examining the markings on that exhibit, what it is; and if so, please explain.

A Yes, sir. It is a service message. To clarify that, it is a message from Madrid via the RCA carrier to our office in Miami. That is, to the Western Union office. And they are making an inquiry--

MR. GREENSPAHN: May it please the Court--

THE COURT: I will sustain the objection to it on the ground it is purely hearsay.

MR. MORRIS: Your Honor, I submit this is a matter that is received in the regular course of business.

THE COURT: I do not care whether it was received or not. You are going to have to lay a proper foundation. You have not laid the proper foundation for the others yet. This is not something that is done in the normal and customary course of

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his business; nor was it in the normal and customary course of his business to make these, nor was there any showing made that it was made at or about the time of the date that it purports to bear. That is particularly applicable with the three that you have been talking about. You have not yet laid a foundation for this.

MR. MORRIS: We will have additional evidence, your Honor.

THE COURT: All right. If you can connect it up, fine.

BY MR. MORRIS:

Q Mr. Killian, I now show you Government's Exhibit for Identification No. 5 and ask you if you can state what that is.

A Yes, sir. It is a number sheet.

Q What is the purpose of number sheets?

A These sheets are maintained at each of our transmission positions and it essentially records the signer or the initials or identification of the various operators that might work at that position. It shows the time that it goes on--it shows

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the time that the operator goes on and comes off the position; and the messages--that is, by identification number--that he transmitted during his tour on that position.

Q Is there any indication on this sheet with regard to the messages which I have shown you as Government's Exhibits for Identification Nos. 1, 2 and 3?

MR. GREENSPAHN: If it please the Court, the question, of course, is leading, as well as at this point again no proper predicate or foundation has been laid.

THE COURT: I will sustain the objection on the ground it is leading.

MR. GREENSPAHN: Thank you, sir.

THE COURT: What connection, if any, does that sheet have with the three telegrams that have been testified to before now?

THE WITNESS: This, your Honor: The identification number on those three messages are recorded on here in this sense:--

THE COURT: That is all I need to know,

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sir. I will give counsel an objection to the question that I asked.

MR. GREENSPAHN: Thank you, sir.

THE COURT: Proceed.

BY MR. MORRIS:

Q With respect to Government's Exhibits 1, 2, 3 and 5, I will ask you, Mr. Killian, will you state whether or not these are records of the Western Union Company which are kept in the regular course of business.

A Yes, sir, they are.

Q I show you again Government's Exhibits 1, 2, 3, 4 and 5 and ask you whether it is the regular practice of Western Union to retain these records.

A Yes, sir, it is a regular practice to retain the records.

Q These particular items?

A These particular documents, sir, these particular ones lying in front of me, sir.

Q Yes, sir. And all documents of that character?

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A Of that character and nature, yes, sir. That is the regular practice. Each of these, as a matter of fact, is retained for a specific period of time, after which they are destroyed.

Q And as such, would you state whether or not these documents represent events as they occurred at the time they were made?

MR. GREENSPAHN: Objection, your Honor. The documents speak for themselves.

THE COURT: I will sustain the objection.

BY MR. MORRIS:

Q In the normal course of business, are these documents made at or about the time that they purport to be made?

MR. GREENSPAHN: Objection, your Honor, as calling for hearsay and a conclusion. This man has not yet been qualified to render that conclusion.

THE COURT: I will sustain the objection to Exhibit No. 4 and will overrule it as to Exhibits 1, 2, 3 and 5.

MR. MORRIS: Will the witness please

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answer that question?

A Yes, sir, they are.

MR. MORRIS: Your Honor, I offer Government's Exhibits for Identification 1, 2, 3 and 5 in evidence.

THE COURT: All right, sir. Is there any objection?

MR. GREENSPAHN: Yes, sir. There has been no proper predicate or foundation, and at this point they are neither relevant nor material to the matter before the Court.

THE COURT: All right, sir. The objection is overruled and the documents will be admitted in evidence as Government's Exhibits 1, 2, 3 and 5.

(Thereupon the documents referred to were received in evidence as Government's Exhibits Nos. 1, 2, 3 and 5, respectively.)

BY MR. MORRIS:

Q Mr. Killian, I show you again

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Government's Exhibit No. 5 and ask you to state what that is.

THE COURT: He has testified what it is. He said it contains the code numbers on the first three exhibits.

MR. MORRIS: All right, sir.

THE COURT: I will sustain my own objection on the ground it is unduly repetitious.

MR. MORRIS: I have no further questions.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Killian, when did you first become familiar with and aware of Exhibits numbered 1, 2 and 3, the cablegrams?

A On the morning of June 7 I had a--on the morning of June 7th, sir, I believe that answers your question.

Q And to your knowledge, in the interim period, between the time indicated on the face of

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them, as you have testified that they were received-- 10:23 and 10:24--until the time that you had personally become aware of them, had they been out of the possession of the Western Union office or its personnel?

A No, sir. Let me be quite sure I understand. You are saying from the time that they were accepted, as I testified, from ten o'clock until the time that I became aware of their existence, had they actually been out of our possession?

Q Yes, sir.

A Not to my knowledge, sir, no.

Q And to your knowledge, in that interim period, how many people were then employed at the Western Union office at 230 North Miami Avenue?

A A great many, sir.

Q I am talking about between that period--that is, ten o'clock or 10:23 in the evening until the next morning when you became aware of it.

A This, of course, is an estimate, but I would say probably fifty people.

Q Based upon your experience over the

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course of the last nineteen years, how many of these fifty people would have had occasion to personally handle or touch these telegrams?

A May I have just a moment, sir?

Q Certainly. Think it over.

THE COURT: Do you need then to look at?

THE WITNESS: No, sir. Just to refresh my--most of those things going through are routine.

THE COURT: All right, sir.

THE WITNESS: I believe six, six, or about six.

BY MR. GREENSPAN:

Q Subsequent to the time of your first awareness, for how long a period of time did these remain in the possession of Western Union, yourself, or any of the other personnel of Western Union?

THE WITNESS: Might I bear that once more?

THE COURT: Yes, sir. From the time you found out about them, how long did Western Union have possession of them after that?

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Killian - cross

THE WITNESS: Yes, sir. I found out about them on the morning of June 7th which, I believe, was a Friday. And as I recall, they were subpoenaed by the Government and passed into their possession--I can be certain about this by looking at my records, but I think it was on the following Monday, sir.

BY MR. GREENSPAHN:

Q In that interim period, how many persons other than yourself handled these at the Western Union office?

A Well, I initially estimated six. And then when I did learn of their existence, I removed them from our regular files and kept them in my desk thereafter. They were then under lock and key, and I think that no one had access to them after that, sir, until they were subpoenaed.

Q Now, you referred, in the course of your direct testimony, to a number "066A" and you explained what that was?

A Yes.

Q That was evidenced on Exhibit No. 2?

Killian - cross

A Yes.

Q Are there any other similar numbers indicated on Exhibits 1 or 3?

A Yes, sir, there is. There is 219 on Exhibit 1 and 065 on Exhibit 3.

Q What is the time indicated on Exhibit 1, sir?

A The time of acceptance on Exhibit 1 at our counter was 10:24.

Q And on Exhibit No. 3 that you have there?

A It was accepted or appears to be at 10:23.

Q I have Exhibit 2 in my hand and I ask you the time of acceptance on that.

A At 10:23, sir, on June 6.

Q In orderly sequence, then, is it true that Exhibit No. 3 is 065 and Exhibit No. 2 is 066?

A Yes, sir.

Q And it would appear, in terms of time sequence, that the following and succeeding cablegram, No. 3, would then be 067? Is that a fact, sir?

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Killian - cross

A No, it is not.

Q What is the reason for that, if any, that you know of?

A I can surmise it, sir.

Q Without surmising, sir, but in the light of your past training and experience and your understanding of the operations of the Western Union office at 230 North Miami Avenue?

A Yes, sir. The two lower numbers--that is, 065 and 066--were transmitted some hours ahead of Exhibit 3 which, of course, accounts for the fact that the two messages have a lower number and the later transmission or transmitted message has a considerably higher number.

Q Can you tell us, again based upon your history of training and experience with Western Union or from your direct investigation into this matter, how much time elapsed between the sending of message No. 066 and 219?

A Do you mind giving me just a moment, sir, to look at this?

Q No, sir.

Killian - cross

A Approximately four and a half hours, sir. That is not exact. Let me make that--066 was transmitted at 12:54 in the morning. No. 219 was transmitted apparently at 5:27, sir. The last digit in this time stamp is off line and I can't be certain. It was 5:20 and some minutes.

Q Would any of these identifying numbers--065, 066 or 219--be reflected on the other number log sheet that has been further identified as Exhibit No. 5?

A It would be among those numbers, not as such, sir, but the sending operator, when he signs on or she signs on, puts down the next number that they send. In other words, the first number they send, and when they sign off, they record the last number which they send. So these would fall in those groups. But I doubt very much--I feel sure from having examined that record, that these numbers as such specifically are not stated on there, no, sir.

Q Are these numbers reflected in any way upon the fact of Exhibit No. 5?

A Only in that relationship that I

Killian.- cross

indicated, sir.

Q With particular reference, then, to 065 and 066, where--and designate it by line or other indication--is there an indication of 065 or 066?

A The very first recording on that channel--channel A--it starts at 01. And the operator who signed on at that time signed off after he sent No. 123. So these two messages--065 and 066--would have been transmitted during that period of his tour. The 219, of course, would be different. It was transmitted considerably later and would fall in the fourth line on this sheet. Another operator or a different operator who transmitted from 202 to 331 would pick up that particular message, sir.

Q Mr. Killian, what was the procedure that was employed as of June 6 or June 7 at the 230 North Miami Avenue office of Western Union relative to the giving of a message to a transmitter for the purpose of transmission?

A At that time of the morning the supervisor--the traffic supervisor--would have

Killian - cross

doubtless gotten these messages or picked up these messages from a central source at the end of a conveyor belt and distributed them to the several operators. And at that time of the morning there is usually only one, two or perhaps three, depending on the load, operators on duty. And normally that would be what did take place and presumably did take place in this instance.

Q Based upon the indications on Exhibit No. 5, was that a particular busy period or was that the usual and normal type of period?

A I think not, sir. All of these messages are deferred service. By that I mean they are deferred classification and overnight messages. I think that probably, in moving along a conveyor belt, they could have been separated or could have been separated when spilling over into this, what we call a tub. It is actually a tray. And then in being picked out by the supervisor or whoever was making the assignments of the messages--I assume it was a supervisor--they first take them out as they fall and take from the bulk the fast messages, the

Killian - cross

straight messages and send those--because they are not as critical. You do have as much time as is required to do it. They are not sent after the so-called straight messages or fast messages. And in some manner--and I can't explain this, sir--I don't know--these were separated. Two of them were sent relatively soon after acceptance and the third was not. And I have to assume there was a group of straight messages or for some reason there were messages that the supervisor gave precedence over these and priority of transmission.

2-4 Q Finally, Mr. Killian, between the hours of four and twelve midnight, how many people are on the counter or in the desk area to receive telegrams brought in for delivery by the lay public?

A It would vary a little, sir, depending on the occasion and how much so-called counter traffic we might have. At a minimum there ought to be two. I can't specifically say there was this at this stage, but at a minimum there should be two and there might be as many as three.

Q Is that a duty shift period at your

Killian - cross

office at 230 North Miami Avenue? That is, from four o'clock to twelve o'clock?

A Yes, sir.

Q And, sir, can you, on the basis of Exhibit 5 or any independent recollection you have, tell us approximately how many wires or cablegrams or telegrams were composed at or brought into the Western Union office for transmission between ten o'clock and midnight on the night of June 6, 1968?

A Sir, I don't have that information. I could not.

Q Are all of the numbers reflected on Exhibit 5 with particular reference solely to your North Miami Avenue office or are other offices included in that?

A These are entirely the 230 North Miami Avenue office.

MR. GREENSPAHN: Thank you, Mr. Killian. I have nothing further.

THE COURT: Is there any redirect?

MR. MORRIS: I have no further questions.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THEREUPON--

SOPHIA SALIBA,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Will you please state
your name, your address and your occupation.

THE WITNESS: My name is Mrs. Sophia
Y. Saliba, S-a-l-i-b-a, 90 Northeast 128th Street,
North Miami, Florida. I am an interpreter and
translator for the FBI.

THE COURT: All right. You may
proceed.

DIRECT EXAMINATION

BY MR. MORRIS:

Q How long have you been so employed,
Mrs. Saliba?

A Twenty-six years.

Q Mrs. Saliba, as an interpreter and
translator, are you qualified in the Spanish language?

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Saliba - direct

A Yes, I am.

Q What are your qualifications in the Spanish language?

A My preparation in Spanish, do you mean?

Q Yes.

A I have an A.B. degree from Radcliffe in romance languages. I have a Master's degree from Boston College. And then, of course, my work all this time.

Q How long has that been?

A Almost twenty-six years.

Q Mrs. Saliba, have you ever on any previous occasions qualified as an interpreter/translator of the Spanish language in any Federal Court?

A Yes, I have.

Q In which court is that?

A In this Court two years ago; in this courthouse.

MR. MORRIS: Your Honor, I offer this witness as qualified as an interpreter/translator in

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Saliba - direct

the Spanish language.

THE COURT: Is there any objection to the qualifications of this witness?

MR. GREENSPAHN: No objection.

THE COURT: All right. She will be accepted as an expert in the Spanish language.

You may proceed.

BY MR. MORRIS:

Q Mrs. Saliba, I show you Government's Exhibit No. 1 and I ask you whether or not you have ever seen that document previously.

A Yes, sir. It was given to me for translation.

Q When was that?

A I don't remember the exact date.

Q Approximately when was that?

A I would say within the last six months. I can't give you any more accurate time than that.

Q Who gave you this document?

A Agent George Davis.

Q Did you prepare a translation on that?

A Yes, I did.

Saliba - direct

MR. MORRIS: I ask that these documents be marked as Government's Exhibits 1A, 2A and 3A for identification.

(Thereupon the documents referred to were marked as Government's Exhibits Nos. 1A, 2A and 3A, respectively, for identification.)

BY MR. MORRIS:

Q Mrs. Saliba, I show you Government's Exhibit 1A and ask you if you can identify that.

A Yes. This is the translation I made of this telegram.

Q I show you Government's Exhibit 2A and ask you if you can identify that.

A This is also a translation I made of a telegram.

Q I give you Government's Exhibit 3A and ask you if you can identify that.

A This is also a translation I made of a telegram.

Q You have got Exhibit 1 there. I show you Government's Exhibit 1A. First of all, let me ask

Saliba - direct

you if there is any connection between Government's Exhibit 1 and Government's Exhibit 1A for identification.

A 1A is a translation of Exhibit 1.

THE COURT: And the same thing is true with respect to Exhibits 2 and 2A and Exhibits 3 and 3A, is it not?

THE WITNESS: Yes, sir.

THE COURT: Let us move on.

MR. MORRIS: Your Honor, I offer into evidence Government's Exhibits for Identification 1A, 2A and 3A.

THE COURT: All right, sir. Is there any objection?

MR. GREENSPAHN: Yes, your Honor.

It seems proper to me that the qualified interpreter interpret, for the purpose of this jury hearing the interpretation, the contents of Exhibits 1, 2 and 3, but it does not seem proper to put in 1A, 2A and 3A, each of which has a literal and a sense translation. The sense translation really is a conclusion drawn by the interpreter. I think her interpretation as

Saliba - direct

such can be expressed, but not by way of a written translation.

THE COURT: Let me look at them.

MR. MORRIS: Your Honor, I believe that literal translations frequently make very little sense and a sense translation is necessary in the valid translation of a document.

THE COURT: Your sense translation is your opinion as to what the literal translation means in English?

THE WITNESS: It is not exactly my opinion, but it is the good English translation, because when you translate from one foreign language into another and give the meaning of each word, it is not good English necessarily and, therefore, the sense translation there is a good English translation.

For example, to give you just an example. In French you say "I have hunger." You say the same thing in Spanish. It doesn't make good English to say "I have hunger" because in English we say "I am hungry." Therefore the sense translation is just giving a good English interpretation.

Saliba - direct

THE COURT: With that explanation I will overrule the objection and admit the documents into evidence as Government's Exhibits 1A, 2A and 3A.

(Thereupon the documents referred to were received in evidence as Government's Exhibits 1A, 2A and 3A, respectively.)

MR. MORRIS: Your Honor, I would like permission to publish these documents at this time.

THE COURT: I do not think it is necessary to publish them at this time. Go ahead and put your case in. You can publish them later, if you wish, but let us move. We have been wasting time here all morning. We have spent about two and a half hours doing something that should have taken no more than forty-five minutes. Let us move on.

MR. MORRIS: All right, sir. I have no further questions.

THE COURT: Cross examination?

MR. GREENSPAHN: No cross examination.

THE COURT: All right, ma'am. You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen of the jury, the Court will now recess until one-thirty. The instructions which I gave you this morning, of course, will be applicable during this recess and during each other recess.

Court will be recessed until one-thirty.

MR. BIERMAN: We would request permission to recall Mrs. Saliba at a later time for other translations.

THE COURT: That is perfectly all right with me.

(Thereupon at 12:00 o'clock noon,
the hearing was recessed to
reconvene at 1:30 o'clock p.m.)

. . . .

AFTERNOON SESSION

(Thereupon the hearing resumed at 1:30 o'clock p.m., pursuant to which the following proceedings were had in the presence of the jury:)

THE COURT: All right, gentlemen.

The Government may proceed.

MR. MORRIS: I will call Mr. Sandridge.

THEREUPON--

H. W. SANDRIDGE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. MORRIS:

Q Please state your full name, address
and occupation.

A H. W. Sandridge, 4103 East 9th Lane,
Hialeah. I am early night manager, Western Union
Telegraph Company, 230 North Miami Avenue.

Q Mr. Sandridge, how long have you been
employed in your present position?

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Sandridge - direct

A With the title or my--

Q Your present position.

A About seven years.

Q How long have you been with Western Union?

A Approximately thirty-two years.

Q What are your primary duties in your present job?

A I work in waiting on customers, answering complaints, money order department.

Q When you say waiting on customers, what does that entail?

A When they come to the counter, any business transaction with the Telegraph Company, I wait on them.

Q I show you Government's Exhibits 1, 2 and 3 and ask you whether you can identify those documents or not.

A Yes, sir, I can.

Q Have you seen them before?

A Yes, sir, I have.

Q When is the first time that you saw

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Sandridge - direct

those documents?

A It would be approximately 10:24 p.m.
on June 6.

Q Would you describe the circumstances
under which you received those documents or how you
happened to see them?

A There was this gentleman came into
our lobby, in our lobby, to the counter.

Q Where is that, sir?

A At 230 North Miami Avenue.

Q All right, sir.

A He came into the office and walked
in through the door, placed them on the counter and
handed me the telegrams. I asked him if he wanted
them to go straight or night letter. He said "Night
letter" and I word checked them, counted them,
rated them and took his money and logged them in on
my cash sheet and put them into the traffic depart-
ment for transmission.

Q Mr. Sandridge, would you please look
around the courtroom and see if you can see the man
who brought those documents in to you?

Sandridge - direct

A Yes, sir. That gentleman sitting there in the blue suit.

Q In relation to this table, where is he, sir?

A Directly across here.

Q Facing you?

A Yes, sir.

Q This gentleman here?

A Yes, sir.

MR. MORRIS: Let the record show that the witness indicates the defendant Orlando Bosch Avila.

THE COURT: All right, sir.

MR. MORRIS: I have no further questions.

THE COURT: Cross examination?

MR. GREENSPAHN: Yes, sir.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q What time exactly was it on the evening of June 6th that the gentleman came in with the exhibits that you have there?

Sandridge - cross

A I don't know the exact time, sir. On night letters, we take them--we have a little well we place them in, and then when we log them in, put them on a cash sheet, we stamp them. But it would be sometime between 9:30 to 10:24, I would say.

Q Who else was working at the Western Union office at 230 Miami Avenue on that evening?

A It would be approximately twenty employees. That includes traffic. No one in my department.

Q Was there anybody else assisting you during that period of time on the counter taking messages as they came in?

A Not that I recall, sir.

Q How many messages did you receive between the hours of four o'clock in the afternoon and twelve o'clock in the evening on June 6, if you recall?

A Well, I can only estimate. I don't know on that particular day. I would have to get my cash sheet out and take it from my cash sheet. I

Sandridge - cross

would say approximately thirty-five to forty.

Q Would you have that sheet that you are referring to with you here today?

A No, sir, I do not.

Q Were you directed to the exhibits that you have in your possession now by any special reason other than they were presented to you by the man who brought them in? Was there anything that caused your attention to be drawn to those exhibits at that time?

A Well, it is quite a large transaction from what we usually get over the counter; that is, money-wise as well as the length of the message. And also it is very, very seldom do we get a good clean clear typed copy. Generally they are handwritten.

Also, I was curious to note, seeing that they were going to be heads of a government and, not being able to read Spanish, I was curious to know what was in them.

Q Did you make any inquiry directed to satisfying that curiosity?

A No, sir.

Q Do you have people at your office who

Sandridge - cross
are bilingual and spoke Spanish?

A Not in my department. Some in the back, in Traffic.

Q You were aware of the fact that they were in the back?

A Yes.

Q Did you make any effort at that time to take these telegrams back to them?

A No, sir.

Q Will you describe, based upon your independent recollection of the events of June 6th, your recollection of the individual who presented himself with these telegrams?

A There wasn't nothing between--do you mean conversation or something?

Q His appearance, any mannerisms on his part, his conversation, anything that would be of a descriptive nature.

A His coat, other than a suit coat; and wearing the same glasses he has on now. And nothing other than that.

Q Were there any physical traits or

Sandridge - cross

blemishes that you noticed?

A No, sir.

Q Did you have occasion, subsequent to the evening of June 6, to be asked if you could make an identification of any person as that person?

A Yes, sir.

Q When was the first time that you were so asked?

A I think it was the following day.

Q By whom was that?

A An FBI agent came into the office.

Q Do you recall that agent's name, sir?

A I believe it was Mr. Davis.

Q Did Mr. Davis ask you at that time if you could state descriptively anything about the person that had brought in the telegrams?

A Yes.

Q Did you at that time give any type of description to Mr. Davis?

A Yes, sir.

Q What was the description that you gave him, if you recall?

Sandridge - cross

A Approximately 160 to 180 pounds, forty-five to fifty years old, Latin appearance, a suit coat, and a gold band on his watch. I think that was about it.

Q Was that the first time you spoke to anybody from the FBI about this incident?

A Yes, sir.

Q Do you recall whether you indicated whether you had had conversation with the man that brought the telegrams in?

A He didn't ask me if I had conversation with him. He asked me if there was a language barrier.

Q Do you recall your answer?

A I said no, there was not enough conversation to have a problem.

Q Did you at that time advise the FBI that the person that came in had a Spanish accent?

A I believe I did.

Q Were you shown any pictures at that time?

A Yes, sir.

Q Do you recall how many there were?

Sandridge - cross

A I estimate eight or ten--between eight and twelve.

Q And of those many pictures, were you able to identify any person as being the person that you saw come in?

A I picked out--threw aside all but two pictures.

Q Do you recall who those pictures were of?

A No, sir, I don't.

Q Why did you select--

A At the time when I put them aside, these two aside, I said it could be either one of these two people.

Q Did you have occasion after that date--that is, after all this happened--to again be interrogated by the FBI or any other Government agency relative to the identification of the man who came in with the telegrams?

A Yes, sir.

Q When was that, if you recall, sir?

A Several days later.

Sandridge - cross

Q At that time were you shown photographs?

A Yes, sir.

Q How many?

A Approximately, I would say, eight or twelve more.

Q Was each of these eight or twelve photographs of a different person?

A That I don't recall.

Q Do you recall whether you, in that eight- or twelve-grouping of photographs, you saw the same photograph of the same person more than once?

A That same photograph that I laid aside, I don't know whether it was the same snapshot or not. But the same pictures was also in the next group.

Q Do you recall at that time whether you gave any further identifying characteristics of the individual by a description other than you had before?

A Not that I recall. I don't recall it if I did.

Q Do you recall at that time whether or

Sandridge - cross

not you were asked if the individual had a noticeable Spanish accent?

A Again I think they asked me if--I don't recall whether he asked me if this man had a Spanish accent. They asked me if I had a language barrier.

Q What was your answer to that, sir?

A "None."

Q Did you indicate whether there was any noticeable accent of any sort at that time?

A No, sir, other than I told him he was Spanish. I don't know whether I told him he had spoke Spanish to me. I don't know.

Q Were you able to verbally describe the individual by age to the FBI?

A When the first agent asked me a description, I gave him a description of approximately forty-five to fifty, if I recall.

Q What about height and weight?

A Five foot ten, if I recall correctly--approximately five foot ten, and 180 pounds--170 or 180 pounds.

Sandridge - cross

Q Did you notice or do you recall, subsequent to that first interrogation by the FBI, any physical blemishes of any sort?

A No.

Q Did you remark again about the glasses that this individual wore?

A Yes, sir. He asked me about if he had on glasses. I said yes, sir, he had on horn rimmed glasses, a little larger than mine, similar to mine. I gave a description.

Q And as I see it, you have on what appear to be gray or black glasses with a clear bottom on each lens, is that a fair statement?

A I don't really know, myself.

Q Take a look and see if I am describing it correctly.

A Yes, sir.

Q Is that the type of glasses that the man was wearing at that time?

A No. I said they were a little heavier glasses, not like what I have on.

Q What about color-wise? Was it the

Sandridge - cross

same?

A He didn't ask me the color.

Q How about your recalling for me what color they were, if you can recall?

A I think I told him they were darker in color than mine.

Q Would that be a darker gray or a darker black than yours, is that what you are referring to?

A I don't know the color. It was just darker. So far as color is concerned, I don't know.

Q Well, let me ask you as of your recollection as of that time. Do not tell me what you remembered for the FBI, but what you independently remember. What color were the glasses frames that you identified?

A I would say dark brown.

Q Dark brown?

A Yes, sir.

Q And were they complete frames, were they partial frames or do you recall?

A Complete frames.

Sandridge - cross

Q Like yours?

A Yes.

Q What other characteristics, if any, did you note?

A None.

Q Did the man have on a tie?

A Yes.

Q He had on a tie?

A I am certain a tie and a suit coat.

Q You are absolutely sure of that, from your recollection, that there was a tie?

A As far as my recollection is concerned.

Q Were there any gloves or anything covering his hands?

A No, sir.

Q Did you personally observe this man touching--physically touching--the three telegrams that you have before you, the exhibits?

A Yes, sir.

Q In your presence would you say that he handled them thoroughly and that his hands or his fingers were on them each independently several times?

Sandridge - cross

A He brought them in in his hands,
laid them on the counter.

Q Did you see him when he laid them on
the counter?

A Yes, sir.

Q Did he hand them or lay them on the
counter one at a time?

A I don't recall that.

Q Did you have occasion subsequent to
the second time that you were interrogated to be
taken to a place for the purpose of making an
identification?

A Yes, sir.

Q What place was that?

A The Miami Colonial Hotel.

Q Who took you to that place?

A An FBI agent.

Q Do you recall the name of the agent?

A Mr. Tucker.

Q What instructions, if any, had been
given before being taken to that place?

A Well, I actually wasn't given no

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instructions. He called me and asked me if I would be willing to go down to the hotel; that he wanted to know--there was a meeting at the hotel, and he would like for me to come down with him there to see if I could pick out or identify the person that brought the telegrams to the office. And I agreed.

Q Now, sir, the very first time that you were asked to make an identification on June 7th, were you able to make a specific identification of any individual based on any of the photographs that were given to you?

A He asked me if I could identify this person, and I said, I told him that I thought I could, but I would rather, to satisfy myself, see this person rather than commit myself.

Q You told him then that you could not make a specific identification on the basis of the photographs, is that a fair statement?

A I didn't tell him that. But that is what I had rather do, is make a personal identification.

Q And between the time that that

Sandridge - cross

occurrence took place and the time that you went to the Miami Colonial Hotel, you saw at least two different sets of photographs?

A Yes.

Q Now, when you got to the hotel, what did you do?

A I met him at the hotel; we went in the lobby, and we sat down in the lobby of the hotel and just sat there. He said, "There will be some people coming in and out, and I want you to observe them and see if you can pick out the party that sent the telegrams."

Q Did you have any occasion on that day or shortly before that date to again see the photographs?

A No, sir. The photographs I seen twice--the following evening, I believe, and several days afterwards.

Q What happened when you presented yourself to the Miami Colonial Hotel?

A Well, we sat there in the lobby some fifteen minutes and this gentleman walked in and sat

Sandridge - cross

down cater-corner across from us; and I recognized him immediately. And I said to him, I said, "Yes."

He said, "You are absolutely sure?"

I said, "Yes, sir." And I said that-- he wasn't facing--he was facing me. I don't believe he had seen him. And the gentleman sat down in that chair a while and he got up and walked out and was out some five minutes, and then he came back in again and sat down. And we sat there for some, I guess we was in the lobby at least twenty or thirty minutes. And he went up--there was a group of people came in and they went in, up the elevator, and we left the hotel lobby.

Q Was that identification at that time, to the best of your recollection, based upon your independent recollection of what you had allegedly seen on June 6, or was it based upon your observations of the photographs on two separate occasions of Orlando Bosch?

A No. It was based on the transaction, because I told him that I was positive that that was-- but then I wanted--there was thirty or forty people

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a day that comes in our lobby, and I said, "I don't want to identify someone that I may have waited on previously or afterwards," and I said, "I'm sure that's the man," but I said, "I may have waited on him at another time. So let me think about whether he was definitely the man that gave me these telegrams."

He may have been in the lobby, you know, prior or afterwards. So I went home and I thought about it until the following day, and I recalled some other things that brought him in my mind--the appearance of him, that kind of roughness in his skin, stuff like that. And I recalled that I had noticed as well the watchband on his arm. I knew I noticed when he reached to give me the money to pay for these, his coat sleeve came up, I remembered that. And so I called the agent and I told him that there was no question in my mind about it.

Q -- How many people had been in there between the hours of four and midnight on June 6?

THE COURT: He said about thirty-five.

BY MR. GREENSPAHN:

Q Did you say that, sir?

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Sandridge - cross

THE COURT: Yes, sir. He testified to that. Let's not repeat questions.

BY MR. GREENSPAHN:

Q Were there any other persons in there that you could now recall or made an effort to recall at any previous time by description?

A Well, if you could point out a transaction, I might be able to tell you. But just offhand, I mean, just like that at this late date, I couldn't.

MR. GREENSPAHN: Your witness.

THE COURT: All right. Redirect?

REDIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Sandridge, can you state whether or not identifying people is any part of your responsibility in your job?

A Yes, sir; about fifty percent of them.

Q In what connection?

A With money orders, paying money orders. We have to record the description and identification of the person we pay money orders to.

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Sandridge - redirect

Q Can you state again or, put it this way, can you state today that your identification of Dr. Bosch is based upon your present independent recollection of the individual who brought these telegrams into the office?

A Yes, sir.

MR. MORRIS: Thank you, sir.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

EDGAR BARRETT, JR.,
called as a witness on behalf of the Government and,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Edgar Barrett, Jr.,
320 Georgia Street, Hollywood, Florida. I am a
teletype operator with Western Union.

DIRECT EXAMINATION

Barrett - direct

BY MR. MORRIS:

Q Mr. Barrett, how long have you been employed in your present position?

A Thirteen years.

Q How long have you been employed in the Miami office?

A One year.

Q Mr. Barrett, I am going to show you Government's Exhibit No. 5 and ask you if you can identify that document.

A Yes, sir, I can, sir.

Q What is it, sir?

A That is a number sheet we use or a log sheet when we sign into our work and when we sign out.

Q Are any of the entries on that document made by you on that particular document?

A Yes, sir; the first two.

Q Will you be a little more specific and tell us what the first two are?

A Well, I signed it at 11:34 and out at 2:00 a.m. And I signed in at 2:16 a.m. and out at

Barrett - direct

4:00 a.m.

Q Would you show the jury, please, just which part of this document that is. Will you hold it up for the jury to see and indicate?

A Those first two.

Q The lines which are indicated by the letters "TB"?

A Yes.

Q I show you Government's Exhibit Nos. 2 and 3 and ask you if you can identify those documents.

A Yes, I can.

Q What are they?

A The first one is a message going to London, England, that I sent. And it has my writing on it.

The second one is going to Madrid, Spain, and has my writing on it. Those were both sent within the tour of duty that I worked.

Q Mr. Barrett, what connection, if any, is there between these two documents--the two telegrams and the other document which has your writing on it?

Barrett - direct

A This here is just a record of what we sent. And, of course, the numbers on here coincide with this record.

Q What does that mean, Mr. Barrett?

A That means that I sent them.

MR. MORRIS: That is all.

THE COURT: All right, sir. Cross examination.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Barrett, are you Spanish-speaking?

A No, sir.

Q When you received the forms that are now in evidence as Exhibits 1, 2 and 3 for the Government, that is, the telegrams, did you receive any instruction with them other than to send them?

A No, sir.

Q Did you talk to any person in your office about them?

A No, sir.

Q Did you have occasion, subsequent to the sending of these, to talk to any person in your

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Barrett - cross

office about them?

A No, sir.

Q Do you know the last witness that we had in here--Mr. Sandridge?

A Yes, sir.

Q Have you discussed with Mr. Sandridge, since June 6, 1968, the sending of these telegrams?

A No, sir.

Q Have you discussed with any other person anything relevant to or about these cable-grams?

A No, sir.

Q Your only connection with this, then, is the actual sending of them?

A Yes, sir.

Q What intermediate steps are there, if you know, between the time the telegrams are received at your office over the counter and ultimately transmitted to you for transmission?

A Well, those, I believe, are both night letter cables, and they would go into a file which at that time I would handle.

Barrett - cross

Q It would go directly from the customer to Mr. Sandridge to you?

A Yes.

Q After the exhibit itself left you, where would it go?

A It would go into another file and then to our service department.

Q Do you know how many people handle these?

A Well, at that time of night, I would say about four.

Q Showing you Government's Exhibit No. 5, can you tell how many wires went out on the basis of the notations made by you during your tour of duty in the morning hours of June 7, 1968?

A The total number would be 198.

Q Of that total number, were there any others, to your recollection, that were in the Spanish language?

A Quite a few, yes, sir.

Q Is that a normal and usual situation down at the office at 230 North Miami Avenue?

Barrett - cross

A Yes, sir, it is normal.

Q Many of your customers are Spanish-speaking?

A Yes.

MR. GREENSPAHN: Thank you, sir.

I have no further questions.

THE COURT: Redirect?

MR. MORRIS: No redirect.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

DAVID MORRIS RICH,
called as a witness on behalf of the Government and,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: David Morris Rich,
621 Jann Avenue, Opa-locka. I am an automatic
operator with Western Union.

Rich - direct

DIRECT EXAMINATION

BY MR. MORRIS:

Q How long have you been so employed,
Mr. Rich?

A For two years.

Q What are your duties in that position?

A Well, I send and receive telegrams for
Western Union; personal telegrams, business telegrams.

Q Where is your office located, sir?

A 230 North Miami Avenue.

THE COURT: How do you send them?

By Morse International Code or by--

THE WITNESS: By teletype.

BY MR. MORRIS:

Q Mr. Rich, I show you Government's
Exhibit No. 1 and ask you whether you can identify
that document.

A Well, I do, yes. I have seen it.

Q Well, do you know what it is?

That is what I am asking you.

A Yes, sir.

Q What is it?

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Rich - direct

A It is a message to Mexico; a telegram to Mexico.

Q I show you Government's Exhibit No. 5 and ask you if you can identify that document.

A Yes.

Q What is that, sir?

A It is a number sheet used to identify the position that we send telegrams on.

Q Now, can you determine, by examining that document, whether any of the entries on it were made by you?

A Yes, sir.

Q Would you indicate, please, to the jury exactly which of those entries were made by you. Just hold it up and point to them.

A Well, there are two of them on here that I did--the third one down and the fourth one down. I signed out and in at 8:00 o'clock in the morning.

Q Are those the ones that begin with the initials "D. R."?

A "D. R."

Rich - direct

Q What connection, if any, is there between these two documents that you have in front of you?

A Well, this is this number on this message here.

Q What number is that, sir?

A 219.

Q Yes, sir.

A 219 is the number of this message.

The number of the message that I signed in for over here, between the hours of five and eight o'clock-- I signed in on the 202nd message and I signed out on the 331st. I sent all the messages in between there; and that is one of them.

THE COURT: When you say you sent them, what do you mean?

THE WITNESS: I punc hed it out on the teletype machine, and the tape goes through another machine and sends that to Atlanta.

MR. MORRIS: You may inquire.

THE COURT: Cross examination?

Rich - cross

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Rich, what were your hours of duty on the night of June 6?

A My normal hours are 6:30 in the morning until 3:00 o'clock in the afternoon, but I was working overtime. I had come in early. I think I came in around three or four o'clock that day in the morning.

Q Three o'clock in the morning?

A It was around three or four. I'm not sure.

Q And using No. 219, which you have already identified, can you give us some indication as to approximately what time of the day or night it was transmitted by you?

A Yes. If you will show it to me, it has the time on it.

This red time stamp shows 5:25, I think. And I signed in at 5:00 o'clock. So 25 minutes after I started, I took this message.

Q Is that A.M. or P.m?

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Rich - cross

A That is in the morning--A.M.

Q That would be June 7th?

A Right.

Q All right, sir. Now, based upon your training and your experience and your work history at Western Union, what would be the time interval from the time that the message was received at the counter until it came to you for transmission?

A Well, it would depend. That is a night letter and night letters are sent after all other messages have been sent of more importance. That would be one of the last things sent. That thing probably came--well, it had to come in before two o'clock that morning--some time on the 6th or before two o'clock on the 7th.

THE COURT: You do not mean they are more important. What you mean is the customer pays more?

THE WITNESS: That is more important.

BY MR. GREENSPAHN:

Q As a matter of course--and again within your experience as a teletype operator--have

Rich - cross

you, on occasion, received more than one consecutive telegram to be transmitted from what appears to be the same person?

A Yes.

Q Based upon your experience and your training, is it customary and usual when a customer brings in several things to be transmitted that they are, in fact, received by you simultaneously and transmitted simultaneously?

A Not necessarily.

Q In what instance, then, would the continuity be broken?

A After the messages come over the counter, the man that works the counter, whoever it is, throws them on a belt, and it comes down to a box, and the traffic supervisor puts these into a box and they can sit there, like this one--if it came in at ten o'clock, I think it was, it would wait until three or four o'clock in the morning in that box, and you don't--the supervisor sticks them into the box. So they can get separated by having other messages put in between them.

Rich - cross

Q Do you recall who was the traffic supervisor on that occasion?

A Yes.

Q Who was it?

A It was Mr. Meyers.

Q Is he still with the company?

A Yes. I believe he's on vacation right now.

Q Now, do you know how many people handled message No. 219 from the time it was received at the Western Union office?

A Well, normally there should be three: The person that took it over the counter, the supervisor, and me.

Q Have you had occasion, sir, to discuss this or Exhibits 1 and 2, which are the other telegrams purportedly sent by the same individual, with Mr. Sandridge of your office?

A No, sir.

Q Have you discussed these with anybody?

A Well, with the FBI man that talked to me and Mr. Morris.

MR. GREENSPAHN: I have no further questions. Thank you.

THE COURT: Redirect?

MR. MORRIS: No redirect, your Honor.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

KENNETH MORSE BERNAW,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Kenneth Morse Bernaw,
Miami, Florida. I am presently with the United States Coast Guard.

THE COURT: Are you a yeoman, son?

THE WITNESS: Gunner's mate, sir.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Where are you stationed, Mr. Bernaw?

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Bernaw - direct

A Coast Guard Base, Captain of the Port's office, in Miami Beach, Florida.

Q Were you on duty, sir, on September 16, 1968?

A Yes, sir, I was, standing on watch on the Polish merchant vessel POLANICA.

Q Did anything unusual occur, sir, that evening?

A Yes.

Q At what time?

A About a quarter to three in the morning. I was standing watch, and it appeared that a round--a rifle round hit on the causeway side of the boat. She was tied up at Dodge Island.

Q You said, sir, it appeared?

MR. GREENSPAHN: At this time we object and move to strike the answer as not responsive to the question. There is no proper predicate or foundation laid, for example, for an opinion by Mr. Bernaw as to the type of--

THE COURT: All right, sir. I will sustain your objection on the ground that the witness's

Bernaw - direct

qualifications are not shown.

Were you stationed on this vessel?

THE WITNESS: Yes, sir. We stand watches on them, and check people that come on board.

THE COURT: Were you on watch on this particular vessel?

THE WITNESS: Yes, sir, I was.

THE COURT: All right, sir. Counsel has asked you if during that time anything unusual happened.

THE WITNESS: Yes, sir. There was an explosion on the causeway side where she was tied up. She was tied up on Dodge Island.

BY MR. BIERMAN:

Q Without telling me, sir, what the sound sounded like, were you able to make an identification of the sound?

A Yes, sir. It was an explosion.

Q Did you, sir, serve with the Coast Guard on any duty other than in the United States?

A Yes. I served for a year and a day

Bernaw - direct

in Vietnam.

Q During the course of your serving in Vietnam, did you have the opportunity to judge, which I imagine you did, or to hear gunfire and recoilless rifle fire and mortar fire?

A Yes, sir, I have.

Q Are you, sir, able to distinguish in your mind the differences between the sounds of different types of guns?

A Yes, sir, I am. Being a gunner's mate and firing, I am pretty sure I can.

Q Did you receive training from the Coast Guard in the firing of artillery and such?

A In naval ordnance, yes, sir.

Q Sir, based upon your experience in Vietnam and your training, what would you say was the sound which you heard?

A It was a recoilless rifle round, because when I was in Vietnam, they fired many of them at us, and it's one sound you never forget.

Q Would you describe that sound for us?

A When it's coming, it sounds more like a jet coming in at you, like a screeching sound comes

Bernaw - direct

in.

Q Is there an initial sound and then another sound or--

A Well, it all depends how far away it is fired at you, but when it's in the air, when it gets where you can hear it, there's just no telling what part. You know exactly what it is.

Q Did you, sir, see the point of impact?

A Yes, sir. When the round hit, we ran over to the portside, the side on the causeway, and looked down to see where the round hit. It had exploded.

Q I show you, sir, what has been marked Government's Exhibit No.6 for identification and ask you if you can identify this.

A Yes, sir. That is the side of the boat.

Q Does this photograph, sir, accurately reflect something which you have seen in the past?

A Yes, sir, it does.

Q Is that what you observed?

A That was the side of the POLANICA

Bernaw - direct

where the round hit and exploded.

MR. BIERMAN: I would offer this into evidence as Government's Exhibit No. 6 for identification.

MR. GREENSPAHN: May it please the Court, I would move to strike the answer as not being responsive. And again, no proper predicate or foundation having been laid for it, identifying the boat or the vessel or the place of impact as being anything more than a boat or vessel. It calls for hearsay and it calls for a conclusion on the part of this witness for which no predicate has been laid.

THE COURT: I cannot agree with you. This witness said he was actually on watch, on deck. He heard the gun fired and shortly thereafter he made an identification and he says this is a true and accurate representation of what he saw at the time he looked down the side of the vessel.

Is that your testimony?

THE WITNESS: Yes, sir.

MR. GREENSPAHN: My objection only goes to the reference to the vessel as the POLANICA.

Bernaw - direct

There was no qualification of that.

MR. BIERMAN: This is going in as the boat upon which he was standing.

MR. GREENSPAHN: Yes, sir, I agree with you.

THE COURT: All right, sir. I will sustain the objection that at the present time as to this witness's identification of the vessel is that it was a Polish vessel.

MR. GREENSPAHN: Thank you, sir.

MR. BIERMAN: May I pass this to the jury?

THE COURT: Yes, sir.

BY MR. BIERMAN:

Q Did you know, sir, the name of the vessel upon which you were standing guard?

A Yes, sir. The vessel's name was the POLANICA.

MR. GREENSPAHN: Objection and move to strike as hearsay.

THE COURT: No, sir. It is over-ruled.

Bernaw - direct

BY MR. BIERMAN:

Q After having heard the impact and moving to that side of the boat, sir, did you observe anything in the water?

A Yes, sir. We had a 40-footer that was on a waterside surveillance, and she was in the water and she had a spotlight on, and she put it on where the round had hit, and she ran over on the causeway and shined the light on the side of the MacArthur Causeway, about a quarter of a mile either way of where we were docked, looking for things.

Q Do you, sir, board all vessels which come into the Miami Port?

A We board and stay on board all bloc vessels which come in, most of the tankers and freighters that come into Miami and Fort Lauderdale and the West Palm Beach area.

Q What do you mean, sir, when you say "bloc vessels"?

A All your Communist vessels, Polish vessels, et cetera.

Q You do not, then, sir, remain aboard

Bernaw - direct

American vessels when they come in?

A No, sir, we don't.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Do you know, sir, the purpose for your being required to board, and maintain watch on these Communist vessels that come into our ports?

A Yes, sir.

Q What is it, sir?

A We check. We go aboard as soon as they tie up. We go aboard with Customs and Immigration. And our primary purpose is to go aboard with radioactive equipment to see if they have any nuclear warheads, et cetera. And we log all people that come on board and go off and check packages that come off and go on and we check the cargo and make sure that they meet our safety standards, et cetera.

Q Approximately how high up from the

Bernaw - cross

water level were you standing, Mr. Bernaw, when all of this happened?

A I believe it's about 20 feet or so.

Q Did you have a clear and unobstructed view of the MacArthur Causeway and the adjacent area to it?

A Yes, sir.

Q When you heard the sound of the explosion that you described, did you immediately look to the MacArthur Causeway?

A Yes, sir.

Q Was there illumination there, either by moonlight or otherwise?

A I believe the moon was out, and streetlights, and there were other lights to our back on the port, the lights shining.

Q What, if anything, did you see of an unusual nature?

A We looked over on the causeway after we looked down on the portside, and we didn't see anything on the causeway. But we had a 40-footer that ran over. I don't know if they saw anything.

Bernaw - cross

Q Were you using the naked eye or were you using some optical equipment?

A It was just the naked eye, sir.

MR. GREENSPAHN: I have nothing else.

Thank you.

MR. BIERMAN: Just one question, Mr. Bernaw.

Did you find any nuclear warheads or other objectionable items on this boat?

THE WITNESS: No, sir.

MR. GREENSPAHN: Objection as not material or relevant.

THE COURT: I will sustain the objection. I do not think it makes any difference.

MR. BIERMAN: No further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THEREUPON--

NORBERT TINSLEY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and

Tinsley - direct

testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Norbert Tinsley. I live in Miami. I work for the Coast Guard.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Were you on duty, sir, on September 16 of this year?

A Yes, sir.

Q Where were you?

A I was aboard the Polish motor vessel POLANICA.

Q Did anything unusual occur--where were you, first, on the vessel?

A I was on the dockside of the ship near the gangway.

Q Did anything unusual occur?

A Yes, sir. There was an explosion occurred.

Q When was that, sir?

A It was about fifteen minutes of three,

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Tinsley - direct

around there.

Q Did you, sir, then observe where the explosion was?

A Yes, sir.

MR. BIERMAN: Mark this as Government's Exhibit No. 7 for identification.

(Thereupon the photograph referred to was marked for identification as Government's Exhibit No. 7.)

BY MR. BIERMAN:

Q Did you observe anything else in the water, sir?

A Nothing that I could see in the water, no.

Q Did you see any other Coast Guard personnel?

A Yes, sir. There was a patrol boat off the side of the ship.

Q I show you, sir, what has been marked Government's Exhibit No. 7 for identification and ask you if you recognize that, sir.

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Tinsley - direct

A Yes, sir.

Q Does that actually depict something which you had seen?

A Yes, sir.

Q You had seen it?

A This was the indentation in the ship.

Q When you say "the indentation of the ship," are you referring to the POLANICA?

A Yes, on the POLANICA itself, yes, sir.

MR. BIERMAN: We would offer Government's Exhibit No. 7 for identification into evidence.

MR. GREENSPAHN: It seems to be a duplication of the other picture and, accordingly, I object.

THE COURT: Objection overruled.

(Thereupon the photograph referred to was received in evidence as Government's Exhibit No.7.)

BY MR. BIERMAN:

Q Other than what you have testified to,

Tinsley - direct

at the time of the explosion did you notice anything else on board?

A No, sir, except personnel of the ship fishing and that was about all.

MR. BIERMAN: I have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q How many other Coast Guard officers or men were stationed aboard the POLANICA at the time that you were on?

A One other.

Q Was that Mr. Bernaw?

A Yes, sir.

Q That was the witness just a few minutes ago?

A Yes, sir.

Q Prior to the explosion that you heard, did you observe any unusual activity in and about the vessel itself or about the dock area?

A No, sir, none other.

Q Did you observe any unusual activity

Tinsley - cross

on MacArthur Causeway or the adjacent land area?

A No, sir.

Q After this explosion occurred, what did you do?

A Well, of course, we tried to contact our base to report it, and then I went over to the side of the ship and looked down to the area where the paint was removed.

Q Immediately before the explosion did you observe either by sight, by hearing or by any of your other senses, anything unusual?

A No, sir.

Q Did you at any time have an awareness of the fact that there was a Coast Guard patrol boat in the water very close to the location of the vessel that you were on?

A I knew they were out there. I didn't know exactly in what position, but I knew they were there.

Q And based upon your observation, after the explosion, did that patrol boat turn its lights on directly, its spotlight on anybody or anyplace?

Tinsley - cross

A It directed its searchlight on the area of impact.

Q And for how long a period of time did those lights remain on the area of impact?

A Probably five minutes; five or six minutes.

Q Then did the lights go out or did they shift position?

A Of course, they moved about the area trying to spy anything that might be around there.

Q Referring now to the MacArthur Causeway area.

A They had it headed in that general direction.

Q Were you up on the main deck of the vessel?

A I was on the main deck.

Q At the time this was happening?

A Yes.

Q Did you look out at the MacArthur Causeway at the time that the Coast Guard vessel's lights were out on the causeway?

Tinsley - cross

A I looked in that general direction,
yes, sir.

Q Did you see anything unusual at that
time?

A No.

MR. GREENSPAHN: Thank you, sir.
I have nothing else.

THE COURT: Redirect?

MR. BIERMAN: Nothing further.

THE COURT: Thank you very much, sir.
You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen, I
am going to call a recess for about ten minutes at
this time. The instructions which I have given you,
of course, are and will be applicable.

Court will be in recess for ten
minutes.

(Thereupon a short recess was
taken, pursuant to which the
following proceedings were
had:)

THE COURT: Call your next witness,
please.

THEREUPON--

LARRY STEPHEN HARDIN,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Larry Stephen Hardin,
Miami Beach, U. S. Coast Guard.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Hardin, were you on duty on
September 16, 1968?

A Yes, sir, I was.

Q Where were you, sir?

A From twelve to eight in the morning.

Q Where were you?

A On a Coast Guard 40-footer.

Q When you speak of a Coast Guard 40-
footer, are you talking about a patrol boat in the
water?

Hardin - direct

A Yes.

Q Where were you patrolling?

A Up and down the Polack ship.

Q Did anything unusual occur?

A Yes. It was shelled.

Q Speak up, if you would, sir, so that the last man in the last seat on the jury can hear you.

A Yes. The ship was shelled.

Q As a result of that, what did you do aboard your ship or aboard your vessel?

A We looked around with the searchlight over to the causeway and places like that. We just seen cars going by, but we couldn't tell for sure if anything stopped or not.

Q Were you able to find anything in your search?

A No, we wasn't.

MR. BIERMAN: Mark this as Government's Exhibit 7B, please.

(Thereupon the photograph referred to was marked for

Hardin - direct

identification as Government's
Exhibit No. 7B.)

BY MR. BIERMAN:

Q What was the name of the ship you were
patrolling?

A The POLANICA or the POLANICA, I think.
I can't pronounce it right.

Q Do you know how to spell it offhand?

A P-O-L-something.

Q P-O-L-something was your answer?

A Yes. I'm not sure how to spell it.

Q I show you, sir, what has been marked
Government's Exhibit 7B and ask you, sir, if you
recognize that photograph.

A Yes, sir, I do.

Q Does that depict something which you
have seen before, sir?

A Yes.

Q What does that depict?

A The ship that we was patrolling.

MR. BIERMAN: I offer Government's
Exhibit 7B into evidence.

Hardin - direct

MR. GREENSPAHN: All right, sir.

The same objection as was raised as to the other photographs, your Honor.

THE COURT: Objection overruled.

It will be received in evidence as Government's Exhibit 7B.

(Thereupon the photograph referred to was received in evidence as Government's Exhibit No. 7B.)

BY MR. BIERMAN:

Q Showing you Government's Exhibit 7B in evidence, would you, sir, take this marking pencil and mark approximately where it was shelled. Make a circle, if you would, please.

A [Indicating]

Q That would be approximately below the bridge, is that correct?

A Yes, sir.

MR. GREENSPAHN: Objection, your Honor. Everything and anything between the waterline and the bridge is below the bridge; that is, on the hull of the ship, not on the main deck.

Hardin - direct

MR. BIERMAN: I will rephrase my question, sir.

BY MR. BIERMAN:

Q Was it in the area, sir, of the bridge?

A Yes, it was.

MR. BIERMAN: May I have permission to pass this to the jury?

THE COURT: Yes, sir.

BY MR. BIERMAN:

Q Sir, in your experience with the Coast Guard, what function does the bridge serve?

A Well, the bridge of the Polack ship, you mean?

Q Yes, the Polish vessel.

A Well, it serves for the steering of the ship. That is where you man it from.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Hardin, did you have an opportunity to go aboard this Communist vessel?

Hardin - cross

A No, I didn't.

Q Have you ever been aboard a prototype Communist vessel, one that looked like this?

A No, I haven't.

Q Do you know by description, sir, what kind of vessel this is, the tonnage disbursement, any type of descriptive statement as to what kind of vessel this pictorialized vessel is?

A Only by seeing it. That's the only way I recognize it.

Q Do you know of your own knowledge, with particular regard to the Polish Communist ship, where the steering mechanism was, where the boilers were, where the engines were?

A Not directly, but that is where most ships are manned from.

Q You do not know where they were on this ship, though?

A No, I have never been on the ship.

Q Mr. Hardin, how long have you been in the United States Coast Guard Station at Government Cut?

Hardin - cross

A Five months.

Q During that period of time, have you served on board patrol vessels with regularity?

A Yes.

Q Have you patrolled the same general area that your patrol boat was in on the night that this all happened?

A We patrol that area every night.

Q What are the areas within that area that you patrol?

A Up and around Dodge Island and over by the piers.

Q Were you near the Polish vessel for any particular reason at the time you heard this explosion?

A Yes. We was there to patrol.

Q To patrol the boat?

A Yes.

Q And at what time did you come on watch that night?

A Twelve o'clock.

Q Until what time were you to stay on

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Hardin - cross

watch?

A Until eight the next morning.

Q What were your duties during the course of that watch?

A Keeping an eye on the ship and looking around for suspicious boats and on the causeway, anything suspicious.

Q Do you know why it was that you were keeping an eye on the ship? Were you looking for suspicious people on board the vessel or suspicious activity on the vessel or were you looking for other suspicious activities?

A I was looking for other suspicious activities.

Q How many other people were on watch with you at that time?

A We had three guys on the boat--me and the engineer and the coxswain. We took shifts on watch. And I happened to be on the shift to watch.

Q Speak up a little louder so we can all hear.

A I was on the shift when it was shelled.

Hardin - cross

Q Could the others on the vessel have a clear and unobstructed view of the waterway and of the MacArthur Causeway during your period of watch?

A No, they couldn't.

Q Were you looking at the area of the MacArthur Causeway across from or immediately north of the Polish vessel immediately before this shell exploded?

A I was going right down the side of the ship when it happened.

Q When this happened, which way were you looking?

A I was looking alongside the ship there.

Q Did your attention divert itself then back to the MacArthur Causeway? Did you look back to the causeway?

A Not right then it didn't. But right after this explosion, I did.

Q Right after?

A Yes.

Q Did you turn a spotlight or any type of illuminating device on the MacArthur Causeway?

Hardin - cross

A Yes.

Q What kind of light was it?

A It was a floodlight, spotlight.

Q In what area of MacArthur Causeway, with particular reference to the Polish vessel, did you immediately look?

A Straight across from where it hit.

Q Will you describe to me what you saw, if anything?

A Well, I seen a bunch of cars going. I couldn't tell for sure if they was all moving. There was a few cars going back and forth.

Q Did you see any people?

A It was kind of dark. We couldn't tell for sure. We could see cars going back and forth.

Q And then what did you do?

A We just kept patrolling up and down there and kept looking on the causeway.

Q Did you call anybody? Did you call for assistance of any sort?

A No. We called the base as soon as it

Hardin - cross

happned.

Q From what you saw--and you were right next to the vessel--the hull of the vessel was not ruptured, was it?

A No, it wasn't ruptured. It was dented in. There was an indentation.

Q Indented like a dent in an automobile from hitting another automobile?

A Yes.

MR. GREENSPAHN; Thank you, sir.
I have nothing else.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Just very briefly, Mr. Hardin, where was your patrol boat at the moment of impact, sir?

A About fifteen feet to the--well, the ship was--

Q -- I show you Government's Exhibit 7B again and ask you to mark with this marking pencil exactly where your boat was.

A It was about fifteen feet, about there

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Hardin - redirect

(indicating).

Q Do you know, sir, what the effect would have been had your boat been struck by this same missile?

MR. GREENSPAHN: If it please the Court, I object.

THE COURT: I will sustain the objection.

MR. BIERMAN: We have nothing further.

THE COURT: Thank you, sir. You may be excused.

MR. GREENSPAHN: If it please the Court, may I have recross on this one point?

THE COURT: I will permit you to ask it on the basis of questions if they relate to matters that were brought out on redirect.

MR. GREENSPAHN: I believe so.

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q Knowing your position on the photograph there in terms of footage away from the Polish vessel, did you hear anything unusual before the

Hardin - recross

explosion, sir?

A No.

MR. GREENSPAHN: Thank you, sir.

Thank you.

THE COURT: You may be excused.

(Witness excused)

THE COURT: Call your next witness,
please.

THEREUPON--

THOMAS STICKNEY,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is Thomas
Stickney, Special Agent of the Federal Bureau of
Investigation. I live on Key Biscayne.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Agent Stickney, how long have you been
employed with the FBI, sir?

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Stickney - direct

A I have been employed with the FBI for a little over sixteen years.

Q In the Miami office, sir, other than investigating, do you have any additional duties?

A Yes, sir, I do. I do a great deal of photographic work. I am a police instructor in photographic work.

Q I show you, sir--if you would step down, with the Court's permission?

THE COURT: All right, sir.

BY MR. MORRIS:

Q I show you what has been marked Government's Exhibit No. 8 for identification. I will ask you if you have ever seen this before.

A Yes, I have.

Q When and where did you see it?

A I saw this on September 16, 1968, just several feet out on the north side of the MacArthur Causeway.

Q Where was it, sir, when you first saw it?

A In the shallow water less than six feet

Stickney - direct
or approximately three to six feet from the shore.

Q Do you know what that is, sir?

A Yes, sir. This is a 57 millimeter
recoilless rifle.

MR. GREENSPAHN: If it please the
Court, I move to strike the answer. There has been
no proper predicate or foundation for the expression
of the opinion of the witness.

THE COURT: Well, I think he can
answer that question. I will overrule the objection.
BY MR. MORRIS:

Q In your training with the FBI, did you
study any weaponry?

A Yes, I did.

Q On how many occasions have you been in
FBI training?

A About fifteen times; that is, regular
training plus all the other types of special firearms
not to mention about twelve types of special training
in firearms.

Q During the course of that training,
have you ever seen a recoilless rifle before or a

Stickney - direct

picture of it?

A I have seen photographs, and I saw one of these several years ago at Ramey Air Force Base or one similar to it.

MR. MORRIS: Your Honor, I would offer Government's Exhibit 8 for identification in evidence.

MR. GREENSPAHN: I would object for a number of reasons. No foundation has been laid for it. The materiality and the relevancy have not been established as of this point as to these defendants.

THE COURT: Well, I think a foundation has been laid for it. I do not think, however, that it has been connected to any of the defendants at the present time. I will overrule the objection subject to it being connected to one or more of the defendants. And if it is not done, I will grant a motion to strike it.

MR. GREENSPAHN: Thank you, sir.

BY MR. MORRIS:

Q Agent Stickney, at the time that you recovered this object or subsequent thereto, did you make an examination of it?

Stickney - direct

A Yes. After it was taken from the water, I made the note that part of it was protruding from the water when I found it. I examined it and noted that it had some oriental, possible Japanese or Chinese figures, and it had a serial number on it, a number that appeared to me--I took it to be serial No. 100334, as I recall.

Q Would you point out where on this recoilless rifle there are those markings?

A Right here.

Q Indicating the bottom end?

A Right. It is right where the projectile goes into the breech end, as compared with the muzzle end.

Q Did you take any photographs of the point of recovery?

A Yes, I did. I took quite a series of photographs of the whole area.

MR. MORRIS: Will you mark this as Composite Exhibit No. 9, please?

(Thereupon the photographs
referred to were marked as

Stickney - direct

Government's Exhibit No. 9
for identification.)

BY MR. MORRIS:

Q I show you, sir, four photographs
which have been marked Composite Exhibit 9 for
identification and ask you if you recognize these.

A Yes, sir, I do. These are photographs
that I took on that date we recovered the rifle.

Q Did you supervise their development?

A I did.

THE COURT: That is not necessary.
Are they true and accurate representations of the
area at the time you took the photographs?

THE WITNESS: Yes, sir, your Honor, it
is.

THE COURT: That is all that is
necessary.

BY MR. MORRIS:

Q When was it that you took these?

A I took these within just a few minutes
after the time that this was recovered on September
16, 1968.

Stickney - direct

MR. GREENSPAHN: No objection.

THE COURT: Let me look at them.

BY MR. MORRIS:

Q Was there anything in this gun at the time that you found it?

A Yes. There was an article in it, and there were some articles attached to it.

Q Would you describe it as it was when you first saw it?

A It was still in the water. I pulled it out of the water. I noticed on the muzzle end there was some adhesive tape which I judged to be one-inch medical adhesive tape, strapping onto that a small piece of bent wire; and it is my impression that it was a makeshift sight.

Q Showing you, sir, Government's Exhibit 8A and 8B for identification--

A Yes. This is the tape with my initials on it; and the wire from the muzzle end.

Q Where was that, sir?

A That was right on the very tip of the muzzle.

Stickney - direct

Q Did it form a V, is that right?

A Right. I would say approximately half of it was laid along the top of the barrel, along about there, with the other half protruding up vertically.

Q In other words, it would be like this (indicating)?

A This is true. And the tape was around the muzzle end of the gun, holding the wire onto it.

MR. GREENSPAHN: Your Honor, the same objection to both of the proffered exhibits. They are not material or relevant to any of these named defendants.

MR. MORRIS: We offer them subject to being stricken.

THE COURT: I will overrule the objection and admit them subject to them being connected up.

(Thereupon the tape and the gun-sight were received in evidence as Government's Exhibits Nos. 8A and 8B.)

Stickney - direct

BY MR. MORRIS:

Q Was anything found within the gun, sir?

A Yes, there was. There was a shell casing. On opening the breech end, this empty or fired casing was found; and I have initialed that.

MR. MORRIS: Mark this for identification, please.

(Thereupon the casing referred to was marked as Government's Exhibit No. 8C for identification.)

BY MR. MORRIS:

Q Will you show us, sir, where this was in the gun.

THE COURT: He said it was in the breech of the gun at the time he found it.

BY MR. MORRIS:

Q Was anything else recovered, sir, at the time you recovered it?

A Yes. The two articles you are holding in your hand.

Stickney - direct

MR. MORRIS: Will you mark these as Plaintiff's Exhibits 8D and E?

(Thereupon the items referred to were marked as Government's Exhibits Nos. 8D and 8E for identification.)

BY MR. MORRIS:

Q Agent Stickney, what do you call Exhibit 8D?

A These are two pieces of a canister, an empty canister, which would be used to contain a live round of 57 millimeter ammunition. These were found within several feet but in deeper water, just out from the location where the gun was found.

Q Did you observe these being brought up?

A Yes, I did.

MR. MORRIS: We would offer Exhibits 8D and 8E in evidence subject to the same restriction as to connection.

MR. GREENSPAHN: The same objection as to relevancy and materiality.

Stickney - direct

THE COURT: All right, sir. The same ruling.

(Thereupon the items referred to were received in evidence as Government's Exhibits Nos. 8C, 8D and 8E.)

MR. MORRIS: We have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Stickney, do you know the vintage of that apparatus?

A The vintage? No, I do not.

Q Have you ever personally operated, fired or constructed one of those things?

A I have not.

Q Do you know the age of the casing or the container that you have identified?

A No, I do not. I do know that it is American-made from having looked at the markings on the canister.

Q You are talking now about the shell or the casing?

Stickney - cross

A I am talking about the canister.

Q How about the shell? Is that American-made?

A I don't recall.

Q In your training that you told us about, when you became acquainted with 57-millimeter recoilless rifles, did they all have similar markings to the markings you have observed on this one?

A I don't recall whether they did or not.

Q After the discovery was made of these various items that you have identified, do you recall whether any fingerprints were found, either latent or otherwise, on any of the items--the gun, the casing, or the box in which the shell allegedly came from?

A There were some smudged latents, as I recall, on the muzzle end, the part that was protruding from the water.

Q Did you personally have anything to do with bringing out that latent fingerprint?

A I did not.

Q Do you know if that latent fingerprint was sent for laboratory analysis to the Washington

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Stickney - cross
office of the FBI?

A I observed those latents being lifted and I packaged them and, as I recall, they were sent to Washington.

Q Do you know where the print itself that was lifted or where a photograph of such a print might now be?

A I do not.

Q Have you seen a photograph or have you seen the lifted print subsequent to the date that you found it?

A I have not.

Q Did you take any other photographs at the scene other than those that have been put into evidence?

A Yes, I did.

Q What were those photographs of?

A They were photographs of the general area showing the--from the location from where the recoilless rifle was found over across the Miami Ship Channel to the Dodge Island wharf where the POLANICA was berthed. I photographed all angles,

Stickney - cross

within my judgment, which tended to show the ship in relation to where the gun was found.

Q Is it a fair statement that you found the gun directly north of the Polish Communist ship?

A That would not be a fair statement.

Q All right. Tell me where you found the 57 millimeter rifle.

A That was found just in a northerly direction. The ship was pointed east, and it was slightly toward the bow end opposite the north.

Q Do you know what the effective distance fired from a mechanism such as this a shell or cartridge can go?

A I do not.

Q At the scene did you find anything else that might be of interest to you in the course of your investigation?

A I'm sorry. I don't understand what you mean.

Q You found the items that are identified?

A Yes, I did.

Q On one of the items there was a fingerprint. Was there anything else of any

Stickney - cross

investigative value that you found at the scene?

A At the time it was considered to be of investigative value; articles.

Q What articles were there, sir?

MR. BIERMAN: Your Honor, I object to this whole line of questioning as going beyond the direct examination.

MR. GREENSPAHN: He talked about what he found and what he saw and what he photographed.

THE COURT: I will overrule the objection. Go ahead, sir.

A I found a large bath towel, I found an assortment of beer cans, coke cans, some old cigarette butts. And there was an impression from a very poor shoe impression.

Q Was there anything unusual about that impression of a shoe?

A No, I don't believe so.

Q Was it a straight sole or was it a rippled sole?

A It was a rippled sole.

Q Were you able to make an identification

Stickney - cross

of any person by reason of that shoe impression?

A Not to my knowledge

Q Was there anything else of present investigative value found at the scene?

A I'm sorry. I don't know what you mean by present investigative value.

Q Let me rephrase the question. Was there anything else considered by you or your colleagues to be of material or relevant purpose in making an identification as to the possessors of this instrument at the time of the shelling of the Polish ship?

THE COURT: I am going to limit the question to this witness and not as to his colleagues. I do not know how he is in possession of testimony as to what his colleagues might have thought.

MR. GREENSPAHN: Yes, sir. I agree.

A Are you asking me if there was additional evidence that is germane to this?

BY MR. GREENSPAHN:

Q That was found at the scene at the time that you were there and that was observed by you.

Stickney - cross

A I packaged all this evidence and I sent it to the FBI laboratory. Now, I didn't make any such examination of the evidence.

THE COURT: The question, sir, is not what you did, but was there anything else other than what you told us about that you found at this time and place.

THE WITNESS: There may have been, but that is all I recall. The evidence that I have named to the defense counsel here is all that I recall. If there is more, there is a list. I made a list of this evidence.

BY MR. GREENSPAHN:

Q Mr. Stickney, did you find fingerprints on anything other than the muzzle of this 57 millimeter rifle?

A No, I didn't and I don't--the gun and several portions--I guess it was the canister--were all that were dusted. I made no fingerprint examinations of the cans, things of that nature. They were packaged as latent evidence and shipped to our identification division for more expert people to

Stickney - cross

examine.

Q What did you call this?

A A shell casing, cartridge. An empty shell casing.

Q The empty shell casing. With regard to this, where was this found? Was it in the water or was it on dry land?

A Well, it was in the water, in the breech of the gun.

Q And the canister?

A That was found in the water.

Q How about the other pieces that have been identified? Were they also in the water? The top of the canister, for instance.

A Yes, those articles were in there.

Q The small piece of bent metal?

A No. That was on the muzzle end of the gun which was protruding or was a couple of feet from the water.

Q And finally, what is this piece of tape?

A A piece of tape. That was on the

Stickney - cross

muzzle end, also. It was not in the water.

Q When you saw this piece of tape, was it dry or was it wet?

A It was dry, as I recall.

Q Did your connection with or investigation of this case cease at this point; that is, at the point of recovery and the point that you photographed the 57 millimeter recoilless rifle?

A No, it did not.

Q Did you have any further opportunity to investigate physical evidence in this case?

A I did not.

MR. GREENSPAHN: May I have one minute, sir?

THE COURT: Yes, sir.

MR. GREENSPAHN: That is all I have.

THE COURT: Redirect examination?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Sir, in relation to the point of impact on the POLANICA, if you were to draw a line directly from that point going outward toward the causeway, and if you were to draw it to the place

Stickney -redirect

where the gun was recovered, would you, sir, mark a directional line from that as to where the gun was recovered?

A Yes. I would say that from the point of impact it would be to a north-northeasterly direction.

Q I am not very good on directions, sir. Is that closer to Miami Beach?

A It is closer to Miami Beach, yes, sir, it is.

Q Was that, sir, on the same side of the causeway or on the opposite side of the causeway?

A (No response)

Q I notice your arrow is continuing, is that correct?

A Yes. In this photograph, the foreground depicts the eastbound two lanes of MacArthur Causeway. Then there is a median full of trees and brush, and then there is across there the westbound two lanes, and then further to the north is where the gun was located in the water.

Q And that is in the water closest to the people coming from Miami Beach to Miami, is that

Stickney - redirect

correct?

A This is true.

MR. BIERMAN: I have no further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

JOSEPH M. BOYETTE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Joseph M. Boyette,
3660 Northwest 16th Street. Supervisor in the marine
office for the United States Customs.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Boyette, did you bring any documents with you here today?

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Boyette - direct

A Yes, I did.

Q Are those documents that you have brought kept in the regular course of business of the Customs Bureau?

A Yes, sir. They are the entry papers of various vessels.

Q And are you the custodian of these documents?

A Yes, sir.

Q Were these taken from the place where they usually were kept?

A Yes, they were.

MR. KLEIN: I offer this into evidence.

BY MR. KLEIN:

Q How many sets do we have all together?

A Five.

MR. KLEIN: I offer them as Exhibits 10, 11, 12, 13 and 14.

MR. BIERMAN: They are of different things.

THE COURT: Five sets of different documents?

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Boyette - direct

There are not five sets of anything going to be offered or received in evidence if they are the same thing. There is only going to be one.

MR. GREENSPAHN: I would object to this. There is no showing as to what it is or what it is for or what its materiality or relevancy is. I do not know what it is.

THE COURT: I do not know what they are.

MR. GREENSPAHN: I do not, either. That is why I suggest that they are not admissible at this point.

MR. KLEIN: As to the foundation for admissibility, we will connect some on the basis of relevancy and materiality through this witness and through others.

MR. GREENSPAHN: That is not the way it is done. The rules of evidence are quite clear. You do not put something in evidence and then link it up and then show that it is relevant or material.

THE COURT: What do these documents relate to?

Boyette - direct

THE WITNESS: These are the entry papers--the Customs entry papers--for some vessels we have a subpoena for.

BY MR. KLEIN:

Q Mr. Boyette, would you explain what these documents are that you have brought with you today?

A They are the Customs entry papers for five different vessels.

Q What five vessels are they?

A The British motor vessel GRANWOOD; the Japanese motor vessel ASAKA MARU; the Japanese motor vessel MIKAGESAN MARU; the British motor vessel CARIBBEAN VENTURER; and the Polish motor vessel POLANICA.

Q Would you explain how those documents came into the possession of the United States Customs Bureau.

A These papers are required to be filed on behalf of the master of the vessel. They are required by law under the Tariff Act.

Q What is the requirement of the Customs Bureau in connection with those documents? What do

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Boyette - direct

they require?

A Well, we require that the master or his agent fill them out. The master signs them before a notary or Customs officer, swears to the truth of these documents.

Q What information is the master required to give?

A Well, he must give his name, the flag, the name of the ship, where he is from, the date of arrival and the date of departure from his last port.

Q What does the Customs Bureau require from the master in that connection?

A We require that these papers, plus his registry, his load, his load line and, if needed, a certificate of inspection if he is carrying passengers. In other words, the other papers of the vessel, the registration of the vessel.

Q Then what is done with these papers after that?

A His registration papers are given back to him. The papers that he fills for the Customs

Boyette - direct
entry are held in our files.

Q Are there any other records of the registration of these vessels kept by the United States besides these?

A We have no other records of them once we have examined them and given them back and checked them against his papers. We give them back.

THE COURT: All right. I will admit them in evidence subject to them being connected up. I will give the defendants an objection.

MR. GREENSPAHN: May it please the Court, the basis for the objection not only is the materiality and relevancy that is lacking, but it is also the hearsay characteristics of these instruments which are not subject to cross examination and which are not properly admitted.

THE COURT: Well, if they are introduced under the Shop Book Rule, that is an exception to the hearsay doctrine. So the objection would be of no validity at this point.

MR. GREENSPAHN: If it please the Court, may I argue the point not in the presence of

Boyette - direct

the jury but to the exclusion of the jury?

THE COURT: All right, ladies and gentlemen. I will have to ask you to excuseus for a few minutes. The same instructions, of course, will be applicable.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

MR. GREENSPAHN: Your Honor, I respectfully submit that these are not within the purview of the Shop Book Rule; that the testimony of the gentleman on the witness stand is that the instruments that are received by his bureau are made by the captain or executive officer of the vessel that presents them in this port. The questions are asked by the United States Customs Bureau, but the answers to those questions are by written documents made by the master or the officer or the executive in charge of the vessel.

I can perhaps draw an analogy to hospital records. It is really not that far removed

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from it. The statements of the physicians within a hospital record are hearsay.

THE COURT: First of all, they are all official records, as I understand the testimony of the witness, that are required to be made out by law.

MR. KLEIN: They are required by statute.

THE COURT: Pursuant to that legal requirement, they are then given to the Coast Guard. It then becomes a part of the Coast Guard's permanent records, which they keep and, in truth and fact, are the only records that they keep. So I will overrule your objection.

Bring the jury in, please.

MR. GREENSPAHN: You mean the Bureau of Customs, your Honor?

THE COURT: Yes, sir.

(Thereupon the jury was returned to the courtroom, pursuant to which the following proceedings were had:)

THE COURT: All right, sir. The

Boyette - direct

Government may proceed.

BY MR. KLEIN:

Q I am going to hand you what is now marked into evidence as Government's Exhibits Nos. 10, 11 and 12. I will get the other two for you shortly.

With regard to each one of those, would you explain where the registry of that vessel is indicated.

THE COURT: Does not that document show the registry of the vessel and where it is docked, the port?

MR. KLEIN: I think it requires a little explanation, your Honor. It does not exactly speak for itself.

THE COURT: All right. I want very little, because I do not want anything that the jury can look at and understand without a lot of testimony.

THE WITNESS: On the master sheet, we require that they state the flag of the vessel. On this particular one (Exhibit 10) it is the British motor vessel GRANWOOD.

Boyette - direct

BY MR. KLEIN:

Q All right. What is the registry?

A The registry, as indicated by the captain, is British.

THE COURT: Is there anything that you have about that that the jury could not understand by looking at that?

THE WITNESS: No, sir. It is marked there.

THE COURT: All right, sir. Let's move on.

MR. KLEIN: Nothing further of this witness.

THE COURT: All right. Cross examination.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q When you receive the statement of the master of the vessel or the captain of the vessel, what verification, if any, do you require from him?

A We check the papers against the registry of the vessel or whatever indication he has

Boyette - direct/cross
of nationality, or the certificate of inspection, the
load line certificate; in other words, the
registration papers of the vessel which are returned
to him.

Q Where was the point of registry of the
GRANWOOD, if you know, sir?

A I don't know, sir. We checked them
and gave them back.

Q Based upon your training and
experience, are there laws within the British Empire--
Great Britain--requiring, as we have for our domestic
vessels, a particular form of registration procedure?

MR. KLEIN: Your Honor, I am going to
object to that. He is asking a question of law that
is beyond the scope and knowledge of the witness.

THE COURT: I do not know. I will
permit this witness to answer the question if it has
any relation to Customs and his duties. Other than
that, I do not want him to express any legal opinions.

THE WITNESS: Sir, as I understand,
the question is, have I seen the British registration?
Is that what you mean?

Boyette - cross

BY MR. GREENSPAHN:

Q No. I am asking you if in the course of your training and experience you have become aware of the fact that there are laws in Great Britain requiring registration procedures to be employed by any flagship.

A Yes, sir. They have laws where they issue registers.

Q Do you rely entirely, then, sir, on the statements made by the master of the vessel without verifying, through the British Empire or other foreign countries, as to whether their requirements as to registration have been met?

A No. Our regulations say you shall verify the flag of the vessel and the registration from the certificate of registration which is presented with the master's papers.

Q Do you have indicated in these records the date of the certificate of registration to which you refer?

A No, sir. We do not put on the papers the date of registration. It appears in some cases

Boyette - cross

on the master's papers, but we don't ourselves write down the date or place of registration.

Q I am not familiar with your papers and I do not want to waste the Court's time thumbing through them. Is there a place in the papers relative to, for instance, the motor vessel GRANWOOD where there can be located the reference to the registry of the vessel by the captain or by some other person?

A May I see it?

Q Yes, sir.

A On this particular one, there is. It is on our standard inward foreign manifest and it contains a statement by the master as to where the registration occurred. This is the only inward foreign manifest which we attach.

Q Is this form, the inward foreign manifest, to which you referred also attached to each and every of the other exhibits that have been placed in evidence in this cause?

A I will have to look at them. There are various forms of inward manifests. I will have to look at them. I can't tell you without looking.

Boyette - cross

Q Is the form of the master's oath on entry of vessel from foreign port the same on each of these--that is, in the form alone, not in the entries that are made?

A Yes. This is a standard customs form.

Q There is nothing that I see on this master's oath that indicates the registry of the vessel. Is that a correct statement?

A It indicates the flag.

Q It indicates the flag but it does not indicate the registry. There is a difference, is there not, sir?

MR. KLEIN: Your Honor, he is arguing with the witness. I object to the question.

THE WITNESS: I don't quite understand. I am not trying to be difficult. A register is a document. Just as you have a register for your car or a register for anything else. This the captain or his agent will show you, but you must give it back. We don't have those.

BY MR. GREENSPAHN:

Q Do you make any notations of the

Boyette - cross

matters and things that are set forth on the registry or on the registration that is given to you for your inspection?

A No, sir, we do not. We check them and if they agree, we do not.

Q And you check them only as to whether they appear to be valid forms to you without any verification or corroboration from the place or the point of registry, is that correct?

A That's correct, sir.

MR. GREENSPAHN: Your Honor, I am sorry to take this time, but I have not seen this document before.

BY MR. GREENSPAHN:

Q How long have you occupied your present official capacity with the Bureau of Customs?

A I have been with the Bureau of Customs twenty-six years, and in my present capacity about twelve.

Q During that period of time have you had occasion to personally inspect the registry of vessels of foreign origin that come into our ports?

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Boyette - cross

A Yes, sir. During that period I have inspected any number of them.

Q In the event that you are not satisfied as to the presentation of documents in that regard, will you turn a vessel back to international waters?

A No, you would not. Where the registry is in doubt, you would normally ask the captain for further verification. In other words, if for some reason you felt that the register was in doubt.

Q What would bring about the doubt in your mind as the examining officer as to the validity of the registration? Use your past experience as a basis for that.

A If it were a photocopy, possibly, or an illegible copy; if it was defaced or perhaps the absence of a registry; something of this type. Occasionally you have a vessel where the registry may show the place and you can't read it, this type of thing. Then I would have to have some other verification from him.

Q Have you, sir, in the course of your

Boyette - cross

occupation, been confronted with situations where the validity of a registry has been questioned by you and where you have sought further corroboration of it?

A Very, very rarely, but it has happened.

Q It has happened?

A Yes.

Q Do you recall, sir, with particular reference to each of these several exhibits that you brought with you today whether or not there was any question as to the validity of the registry in your mind or any of your officers' minds at the time?

A No, sir. There was no indication on any of those that there was any doubt. They were accepted in each case on the basis of the document presented.

MR. GREENSPAHN: That is all I have, your Honor. I would like to reserve the right to recall this witness and have his assurance that he will not leave the jurisdiction of this Court.

THE COURT: All right, sir. You may. Redirect?

MR. KLEIN: No redirect, your Honor.

THE COURT: All right, sir. You may step down. You are subject, however, to being recalled by counsel for the purpose of asking you further and additional questions relating to the documents you have identified.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

JOSE PINSON,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Jose Pinson.

THE COURT: You are going to have to talk a lot louder than that. You are going to have to talk loud enough so that the last man down there can hear you, that lawyer can hear you and this lawyer over here can hear you. So just shout out.

Start all over again.

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Pinson - direct

THE WITNESS: Yes, sir. My name is Jose Pinson. I was with the U. S. Customs at San Juan, Puerto Rico.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Pinson, how long have you been employed by the Customs Bureau?

A Employed with whom?

Q With Customs.

A With Customs? Since 1954.

Q Sir, did you bring with you any documents, any papers?

A Yes, sir, I have some documents here with me.

Q Will you give those to me, please?

A Yes, sir.

MR. BIERMAN: Will you mark this for identification, please, Mr. Clerk?

(Thereupon the document referred to was marked for identification as Government's Exhibit No. 15.)

Pinson - direct

BY MR. BIERMAN:

Q I show you Government's Exhibit No. 15 for identification and ask you, sir, whether these documents are kept in the regular course of the business of the Customs Bureau.

A That's correct, sir. This is the document presented by the master of the vessel in the regular course of the entrance of the vessel at Customs.

Q Is it the ordinary course of business for you to keep this?

A That's correct, sir.

Q Did you, sir, remove these from the place where they are kept or did you have them removed under your control?

A This is under my control.

Q Are you the custodian of these documents?

A Yes, I am the custodian of those documents.

Q Are these filed with the Customs Bureau at or about the time that they are made out?

Pinson - direct

A That's correct, sir.

Q What do these documents relate to, sir?

A These documents relate to the formal entry of the vessel when the vessel enters any port in the United States.

Q What vessel, sir, do these particular documents relate to?

A This is the Spanish motor vessel COROMOTO.

Q On these documents, sir, is the registry of this vessel reflected in any way in any place?

A Well, we have information on those documents that shows the registry of the vessel, where the registry was issued and when the vessel was built.

MR. BIERMAN: Your Honor, I would offer Exhibit No. 15 into evidence pursuant to connection up for materiality.

THE COURT: All right, sir.

MR. GREENSPAHN: Objection to relevancy

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Pinson - direct

and as to hearsay, sir.

THE COURT: The objection is overruled. The document will be admitted into evidence as Government's Exhibit No. 15 subject to being connected up.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit No. 15.)

BY MR. BIERMAN:

Q Would it be clear, sir, to a person looking at the documents what registration the vessel had? Would he be able to find that?

A That's correct, sir.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did you receive the master's oath from the master of the motor vessel COROMOTO, sir?

A That's correct, sir.

Q Did you receive it in the English or

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Pinson - cross

Spanish language?

A English language, sir.

Q Was he fully conversant in the English language?

A (No response)

Q Do you understand the question?

A Pardon?

Q Was the captain or the master of the COROMOTO fully conversant in the English language?

A Well, those documents were presented by the local agent of the vessel.

Q Did you, sir, speak with the captain or master of the vessel?

A I didn't.

Q Did you receive from the captain or the master of the vessel the master's oath on entry made in this instance relative to the COROMOTO?

A That's correct.

Q Did you receive it directly from the master or did you receive it from some third party?

A From the master or the local agent of the vessel.

Pinson - cross

Q Do you know if the master's oath was prepared by the agent or by the master of the vessel COROMOTO?

A That document is supposed to be prepared by the master of the vessel.

Q Do you know, sir, whether the master of the vessel spoke the English language?

A I don't know, sir.

Q Looking at the form of the master's oath, I note that there is an indication of the oath having been administered to the person who signed the master's oath under the designation as "Customs Delegation Order No."--and something else--I don't know what that is. I can't read it. But I would ask you, sir, if you can explain it for me, the signature or the identifying mark that purports to be the attesting officer's mark.

A Yes. This is the signature of the master of the vessel and this oath was taken by the inspector of the Customs at the time he was making the entry of the vessel on board the vessel.

Q So then this was received by Customs at

Pinson - cross

the time of the preliminary entry of the vessel and was received directly from the captain?

A That's correct.

Q Not the agent?

A That's correct.

MR. GREENSPAHN: I would ask that the same reservation and privilege in this instance be granted as I did with the last witness. I must study these exhibits before I can properly interrogate on them.

THE COURT: All right. I shall expect you to complete any cross examination you may have of this witness tomorrow morning. I do not propose to keep him here for an indefinite period.

MR. GREENSPAHN: I understand. There may be none, sir. But I would like to look at them.

THE COURT: I will give you until tomorrow morning at which time you may proceed further if you so desire.

MR. GREENSPAHN: Thank you, sir.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Pinson - redirect

Q Are there any other records in the United States or in Puerto Rico of the registration of this boat?

A Well, you will find there on the first page of that manifest information regarding the registration of that vessel.

Q That would be the only place, is that correct?

A That is the only place.

MR. BIERMAN: I have no further questions.

THE COURT: All right, sir. Thank you. You may step down, but you will have to stay here tonight and come back in the morning and we will see if there is any further examination or cross examination. You may step down for tonight.

(Witness excused)

MR. BIERMAN: We have no further witnesses for today, your Honor.

THE COURT: Ladies and gentlemen, I have indicated that I would recess at four o'clock to give everybody who has not had an opportunity to

vote an opportunity to vote. But it looks as if at this point we have run out of witnesses. So I am going to recess until nine o'clock tomorrow morning. And I am going to change the place of this trial from this courtroom to the North Courtroom.

Does everybody know where the North Courtroom is? It's the courtroom directly behind here. I think you will find it more comfortable and you will be able to hear a lot better, and I believe that we can have a little more satisfactory trial if it is in the North Courtroom rather than here. So if you will report a little bit before nine o'clock in the morning we will get started promptly at nine.

Now, during the recess the instructions that I have given you, of course, are still applicable. Is there anyone on the jury who does not understand those instructions?

(The jury indicates in
the negative.)

THE COURT: Is there anyone on the jury who is not willing to abide by those instructions?

(The jury indicates in
the negative.)

THE COURT: All right, ladies and gentlemen. Having received your assurance that you understand the instructions and that you will abide by them, you may be excused until a little before nine o'clock tomorrow morning, at which time you will report to the North Courtroom.

Gentlemen, this trial will be recessed until nine o'clock tomorrow morning to be resumed in the North Courtroom.

(Thereupon at 3:35 o'clock p.m.,
the hearing was recessed to
reconvene on Wednesday,
November 6, 1968, at 9:00 o'clock
a.m.)

. . . .

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MIAMI, FLORIDA

Thursday, November 7, 1968

(The hearing resumed,
pursuant to prior recess,
in the North Courtroom,
pursuant to which the follow-
ing proceedings were had:)

THE COURT: Ladies and gentlemen of
the jury, I am sorry I had to inconvenience you
yesterday, but there was not very much I could do
about it.

When I left here after I excused you,
I went home and had a fever of 102-1/2, and the
doctor just would not let me come to work. So I had
to stay off.

But that brings up another problem
that I am going to leave entirely up to you. It is
something you do not have to decide at this time.
Normally Monday would be a holiday. So what I am
going to do is this: I am going to leave it to you,
and during your recesses you can discuss it and then
you can tell me, if you will, possibly at the end of
today so that the parties can make their preparations

whether or not you want to work Monday or whether you do not. If the majority of you decide that you would rather continue with this case Monday, we will go right on with it. I realize that an extra day means a great deal to you in your own personal affairs, and I do not want to be arbitrary about the matter. But I leave it to you when you get together. That is the first problem you have had to decide in this case, and that is whether or not you want to take Saturday and Sunday off and start again Monday or whether you want to take Saturday, Sunday and Monday off; and I will abide by whatever a majority of you tell me you wish to do. So if you will consider that and discuss it some time during the day and come to some conclusion, let me know this afternoon by the time we quit and we will proceed by whatever the majority of you decides.

All right, gentlemen. Is the Government ready to proceed?

MR. MORRIS: Yes, sir.

THE COURT: Is the defense ready to proceed?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right, sir. The Government may call its next witness.

MR. MORRIS: As I recall, Mr. Pinson was on the stand for cross examination. I have no further questions.

MR. GREENSPAHN: I do have some further questions.

THE COURT: There are two witnesses that counsel for the defense asked to be retained subject to call, with the intention possibly of asking further questions after he had an opportunity to examine some documents which had been introduced into evidence. And I had told counsel that he could recall them if he so desired, to ask them further questions about it. So you may proceed accordingly.

MR. GREENSPAHN: Thank you, sir.

Is Mr. Pinson in the courtroom?

(No response)

MR. GREENSPAHN: Your Honor, I will certainly agree to waiting until he comes and let the Court proceed with the rest.

THE COURT: Do you desire to cross examine the witness at this time?

MR. GREENSPAHN: No, sir. I would release that witness at this time.

THE COURT: All right, sir. If you will proceed and call him when he comes in.

MR. GREENSPAHN: Thank you.

MR. MORRIS: I will call Mr. Paul John Longley.

THEREUPON--

PAUL JOHN LONGLEY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Paul John Longley,
L-o-n-g-l-e-y. Address: 10410 Lone Tree Lane,
Apartment D, Dallas, Texas. I am manager of the
bookkeeping bureau in Dallas with Western Union.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Longley, how long have you been
in your present position?

A Since November 1, 1967.

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Longley - direct

Q How long have you been employed by the Western Union Telegraph Company?

A Since July 16, 1936.

Q Mr. Longley, did you bring some records with you from Western Union?

A Yes, sir.

Q May I see those, please?

A (Producing documents)

MR. MORRIS: Will you please mark these as a Government's exhibit for identification?

(Thereupon the documents referred to were marked as Government's Exhibits 16 and 17 for identification.)

BY MR. MORRIS:

Q Mr. Longley, I show you Government's Exhibit for Identification No. 16 and ask you whether you can identify it, sir. Just say yes or no, please, sir.

A Yes, sir.

Q And Government's Exhibit No. 17?

A Yes, sir.

Longley - direct

Q With respect to both these documents, Mr. Longley, are these documents kept in the ordinary course of business of your office?

A Yes, sir. The exhibit on the message is. The other one is kept in our central office.

Q But within your company?

A Yes, sir.

Q And is it the ordinary course of business for these documents to be kept in your branch?

A Yes, sir.

Q Are you a custodian of these records?

A Yes, sir.

Q Were they taken from the place where they are usually kept?

A Yes, sir.

Q Were these documents made at or about the time that they purport to have been made?

A Would you repeat that, please?

THE COURT: The question was, were they made out at or about the time the dates appearing on them?

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Longley - direct

THE WITNESS: Yes, sir.

BY MR. MORRIS:

Q Can you explain any markings or symbols or are you prepared to explain any markings or symbols which may not be readily apparent?

A Yes, sir.

Q I will ask you to do that, if you will.

A Yes, sir.

Q There are several markings on here which do not appear to be readily explainable to the ordinary person. Would you please explain those various symbols?

A Yes. Up in the upper left-hand corner there is a symbol or number DB068. That is the telegraph company's identification number of message traffic that is transmitted into Mexico City. That is on our Mexico City Channel D with the "B" symbol. That goes in on Channel B.

The next number just below is AA004. That is the number that is recorded on the message in our receipt from Atlanta. That is a relay message

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Longley - direct
from Atlanta, Georgia.

The next symbol is SSB35A. That means
the Atlanta transmission received from Miami.

The next number is MZA219, which is
the number and symbol of the Miami transmission at
Miami, Florida.

Then the next is MEX. That is the
symbol that we put on there indicating that it is
going to Mexico. The 55 NL means that it is a night
letter, which means it is a deferred traffic with 55
chargeable words therein, and the "PD" means it is
a paid message. And then "MIAMI FLO, June 6, 1968."

Q I notice there is a stamp down here,
sir.

A This is the telegraph company's
standard practice. It reads "Dallas copy, skeleton in
file, bookkeeping bureau" and the date and the clerk
who removes it from the files.

When we remove a revenue message or
any other message from our telegraph files, we must
put something in there to show that it has been
removed. So we stamp this on here, remove the

Longley - direct
original and then we put the date and the initials
of the clerk who removes it from the files.

Q Could you explain how this message
is received and handled in your office?

A Yes. In the bookkeeping department,
this is a monitor copy or copy received from the
original transmission through the Dallas traffic to
Mexico. This comes down to our bookkeeping bureau
for abstracting with the Mexican Government.

Q What does abstracting mean?

A It means on certain traffic they bill
us their proportion of the tolls, stuff that is
originating in the United States. We collect on it,
so they abstract us for their proportion of telegraph
tolls.

Q Can you determine, from examining this
document, whether or not that message was sent,
according to your records?

A Yes, it was.

Q I show you Government's Exhibit No. 1
and ask you what connection, if any, there is
between those documents.

Longley - direct

A This would be identified as the original filing and this is the relay.

Q How are you able to determine that?

A This has the 219 on it, and has the date of June 6, and it's on the "A" channel. It went out of Miami.

Q Are there any message numbers or anything else of that nature on there which would identify it?

A No. The number of words, 55, and the time stamp and the signature. And it is filed as a night letter.

Q I show you Government's Exhibit for Identification No. 16 and ask you whether or not you can identify that document.

A This is a traffic or central office number sheet. As these messages come in on our automatic equipment, they must be switched to other channels or other places. This message here came in from Atlanta. This is the Atlanta, Georgia, "AA" circuit number sheet. So this message was received and transmitted or switched to Mexico City as No. 4,

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Longley - direct

which I have up here on the top, the second number from the top "AA004."

MR. MORRIS: Your Honor, I offer Government's Exhibits 16 and 17 in evidence.

MR. GREENSPAHN: May it please the Court, there is no relevancy to either one. Accordingly, objection is made. And Government's Exhibit No. 17 for identification is repetitious. It merely repeat that which is already in evidence in Government's Exhibit 1.

MR. MORRIS: I believe it shows further evidence that the message was transmitted, your Honor.

THE COURT: As I understand it, Exhibit No. 1 shows that it was--the message it purports to be was transmitted by the local operator, and this man testified that, as I gather, this message was received from the Atlanta office as a relay message and sent from the Dallas office into Mexico City where it was supposed to go.

MR. GREENSPAHN: Also if I may call to the Court's attention--and I will cross examine

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Longley - direct

about it--but there seems to be appended an insertion on this No. 17 for identification which has not been explained.

THE COURT: Well, that is a matter of cross examination. The objection will be overruled. The document will be admitted into evidence.

(Thereupon the instruments referred to were received in evidence as Government's Exhibits Nos. 16 and 17, respectively.)

MR. MORRIS: I have no further questions.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q I notice that on Government's Exhibit No. 17, the message itself, there are insertions in longhand and apparently penned in.

A Yes, I put on there.

Q May I ask, sir, why that was penned in?

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Longley - cross

A This is a message, and I was requested, as manager of bookkeeping, to provide this message to my headquarters office in Dallas. It came out of the June 6th message file. So in order for them to identify that this message was filed June 6th or relayed June 6th, I wrote in the June, 1968, figure.

Q Did you personally, sir, remove this from the June 6th file?

A Yes. This is my initial here. I removed it on September 26th.

Q Is there any identifying feature on the telegram itself or at least on your copy of it that would indicate the date other than your notation that it was subsequently made?

A No, except the 6th, and that is in the local business for the June 6th business. We file all of our messages by dates--in June or July or whatever they happen to be.

Q Is there any indication on here as to the typewritten portion as to the month or the year in which this purportedly was transmitted?

A No.

Longley - cross

Q There is only the statement of "Miami, Florida" with the abbreviation for "Florida" and then the number six after it, is that right?

A Yes.

Q Now, with reference to Government's Exhibit No. 16, will you show me, sir, the relevant portion of this exhibit relevant to this matter and these--

A This is the number here that is associated with this. In other words, this is the Atlanta channel. The number sheet for Dallas showing what telegrams were received from Atlanta during this time. This number here is identified with this. In other words, on our automatic equipment--we don't see this. This comes in automatically on our tape equipment, and the machine that picks up this number has the number that was put on the message in Atlanta, and that is what we received in Dallas.

Q I notice that there are what appear to be modifications and alterations on Government's Exhibit No. 16; that some of it appears to be in graphite pencil and the others in pen and others in a

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Longley - cross

green color.

A There are several switching operators that sign these, this number sheet. In other words, this means here that No. 3 and No. 4--this would mean that this message--"X" is our Mexico City channel. It means that the operator, the switching operator, switches it to a Mexican channel, which happens to be "D" and this corresponds with this. She puts her initials here when she signs out. And these are all routings to various points in the United States on messages that are received from Atlanta through the automatic switching system.

Q It would appear, then, that on the date of June 7, which this exhibit refers to, there were several, many sendings and relays to Mexico itself, noting that there are several Xs in the column for the place to which the transmission is made, is that correct?

A Yes.

Q Now, sir, finally, I note up on top of the printed portion "Channel and Circuit" is written "AA."

Longley - cross

A That's right.

Q Would you explain to us what that "AA" is?

A The first "A" means Atlanta. The second "A" means the "A" channel. In other words, they might have several circuits out of Atlanta going to various places or to Dallas. So they have an "A" channel or "D" channel. This happens to be on the "A" channel.

Q Is this the normal and customary manner of transmission from Miami, Florida, to Mexico City, for instance; that is, from Miami to Atlanta and then from Atlanta to Dallas?

A The ordinary and normal relays for messages from Miami go into Atlanta. That is their normal switching center. And then they would be switched to Dallas for relay to Mexico City over our regular circuits.

Q Sir, when did you first become aware of the fact that the telegrams which this purports to be a copy of had been, in fact, sent?

A You said when did I?

Longley - cross

Q Yes. When did you first personally become aware of that fact?

A At the time that I was requested to extract that from the files was the first time I ever saw the message.

Q That would be, then, the date that is indicated on the face of it?

A Yes. I think that says September 29, does it not?

Q September 26.

A September 26th.

MR. GREENSPAHN: I have no further questions.

THE COURT: All right, sir. Is there any redirect?

MR. MORRIS: No, sir.

THE COURT: May this witness be excused?

MR. GREENSPAHN: Yes, sir.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

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Popolato - direct

THE COURT: Call your next witness.

THEREUPON--

ALPHONSO L. POPOLATO,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Alphonso L. Popolato,
153-27 73rd Avenue, Flushing, New York. I am an
assistant investigation and adjustment clerk.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Where are you employed, Mr. Popolato?

A I am employed for RCA Global
Communications at 60 Broad Street, New York City.

Q How long have you been so employed?

A Nineteen years.

Q Mr. Popolato, what relationship, if
any, does your firm have with the Western Union
Telegraph Company?

A We are a connecting company who

Popolato - direct
transmits international radiograms to all parts
throughout the world.

Q Mr. Popolato, did you bring some
documents with you?

A I did. This is the message that was
requested by the subpoena.

MR. MORRIS: Will you please mark this
as Government's Exhibit 18 for identification?

(Thereupon the instrument referred
to was marked as Government's
Exhibit No. 18 for identification.)

BY MR. MORRIS:

Q Mr. Popolato, I show you Government's
Exhibit No. 18 for identification and ask you whether
you can identify it.

A Yes, sir. This is a Western Union or
original message which was tubed to our communications
in New York by Western Union from their cable depart-
ment in New York.

Q Sir, is that document one which is
kept in the regular course of business by your firm?

A Yes. This is one of the copies that

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we are required to hold for six months.

Q And is it an ordinary custom and course of business for your company to keep this type of record?

A Yes. We are required by the Federal Communications Commission to maintain our records for six months.

Q Are you a custodian of that record?

A Yes, sir. In matters of this type where inquiries are made concerning messages which we handle, I am a custodian of them.

Q Did you take that document from the place where it is usually kept in your company?

A Yes, I did.

Q Is that document one which was made at about the time that it purports to have been made?

A Yes.

Q Would you please explain the process by which that document is received by your company and what is done with it.

A Western Union's cable department in New York tubes the message to our central telegraph

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office. Upon receiving it, we impose the time we received it on the back of the message.

Q Then what happens?

A Then it goes to a router who imposes an office reference number which is in red on the upper right-hand corner, and he also imposes a rubber stamp for the routing of the message. And he indicates by letter symbols, by determining what the destination is, he will put some letter symbols which will be recognized by the computer or automatic relay into the destination.

Q In the performance of your job, Mr. Popolato, are you required to be familiar with markings and symbols used by Western Union Telegraph Company on their wire transmissions?

A Yes.

Q Could you explain any markings or symbols on that document which are not readily apparent?

A Well, the time stamp in the upper right-hand corner would indicate to me that--"CD" is the cable department of Western Union. And they clock

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these messages in to indicate the time that they received it in New York.

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Q I notice the letters "QRC" stamped on there. What does that mean?

A "QRC" are the letters imposed at the Western Union Cable Department prior to its tubing to us to indicate the specific carrier, RCA.

Q Will you go on to the next line and explain those symbols, please?

A Upon receiving this message, we would clock it in to indicate the time we received it in our central telegraph office and we would impose the office number "WXB2904" in red so that we have some type of an office control prior to its release and to be able to account for each message for that particular day. It is also rubber stamped. It is formatted so that when it gets to an operator, he will be able to type up all these symbols on tape.

Q Will you explain those particular items? I notice starting here we have the number 58. Will you explain what those numbers mean?

A This is a reperforator number which is

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automatically imposed by Western Union at their
Atlanta relay.

Q Next we have some letters that are in
there in pencil.

A Well, that is the routing information
that our router would put there to indicate the
specific point. These letters would be recognized by
the computer and automatically relay them to the
destination.

Q What is the destination indicated
there?

A ENMD.

Q What does that mean, sir?

A That is the routing for messages
terminating in Madrid.

Q Go ahead. How about the "HL"?

A The "HL" will indicate the class of
service--night letter--and it is followed by "URNX"
which would indicate the originating point inside the
USA.

The "062" would indicate the number of
words in the message.

Popolato - direct

Q By examining that document, can you determine the date that it was received by your firm?

A Yes. On the back we imposed the time group of June 7, 1:52 a.m.

Q Now, I notice a red stamp here beginning with "W." What does that mean?

A The "WXB" is the number that we impose in our office to indicate that it is a night letter, No. 2904.

MR. MORRIS: I will offer Government's Exhibit for Identification No. 18 in evidence.

THE COURT: All right, sir.

MR. GREENSPAHN: Objection as to relevancy and materiality, and it is repetitious evidence.

THE COURT: All right, sir. The objection is overruled. The document is admitted in evidence as Government's Exhibit No. 18.

(Thereupon the telegram referred to was received in evidence as Government's Exhibit No. 18.)

Popolato - direct

BY MR. MORRIS:

Q Mr. Popolato, I show you Government's Exhibit No. 2 and Government's Exhibit No. 18 which you have just identified and ask you what connection, if any, you are able to determine exists between those documents.

A Well, on this document I see a red number imposed on it--"066."

Q Yes, sir?

A And that would indicate it is a number imposed by a local branch office.

Q What else? Is there any other indication that these messages are in any way connected?

A Well, the reference number on our copy "MZA" would indicate--and the "066" indicates it is a message from Miami, Florida.

Q Do you notice any relationship between the dates, sir?

A Yes. On the copy that we have it reads the 6th of June, and the copy clocked in at the office accepting that message is also June 6.

Q And the address, sir?

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A It is the same and the same class of service.

Q And the address is the same, sir?

A Right.

MR. MORRIS: You may inquire.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q A moment ago you were asked to identify or to describe the purpose of the number "066" that appears on Government's Exhibit No. 2. You indicated that indicates that it is from Miami. How is that or how do you know that that indicates that the telegram is from Miami?

A Well, this number is imposed by the accepting branch office, and this is the type of number that appears. I associated that number with the original message.

Q In what regard did you associate that number with the message that is now Government's Exhibit No. 18?

A The "MZA 066."

Popolato - cross

Q And you presume that the "066" indicates a Miami transmission?

A Yes.

Q Now, sir, what did you indicate that the printed and what appears to be a stamped date in the upper right-hand corner indicates?

A That is a stamp imposed at the cable department of Western Union in New York City.

Q I see.

A That shows the time and the receipt that the cable department got it, yes.

Q What time is indicated?

A 1:13, June 7.

Q Is that a.m. or p.m., sir?

A A.M.

Q Now, sir, as far as RCA is concerned, your employer, is there any study made of the transmissions that are received from Western Union during the course of the normal workday, or are they automatically transmitted out of the country without any intervention by anybody at RCA?

A There is no intervention by anybody at

Popolato - cross

RCA.

Q Are your operators or your transmitters bilingual, those that transmit messages in a language other than English?

A We have numerous people from various nationalities who work for RCA.

Q Do you know, in this instance, who transmitted the messages or the message that you identified as Government's Exhibit No. 18?

A No, but it can be determined. Well, I should point out--the first step, when we receive this message, it goes to a router, as I indicated, and he stamps the time that he received it over the tubes and imposes the "WXB" number.

Q Now, I note finally that there are some pencil markings on the face of Government's Exhibit No. 18. For instance, a particular portion of it is underlined.

A Yes.

Q Who did that?

A That would be done by the router.

Q For what reason?

Popolato - cross

A For each page of transmissions for overseas telegrams there should be 50 words per page. And this would run into a two-page transmission. They count them off in fifties.

Q Over in the right-hand margin there is a looping mark made by a pencil. What identification has that?

A That is the signature of the operator who perforated the tape for overseas transmission.

MR. GREENSPAHN: I have nothing else. Thank you.

THE COURT: Redirect?

MR. MORRIS: No redirect, your Honor.

THE COURT: Thank you very much, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

Pinson - cross

THEREUPON--

JOSE PINSON,

having previously been duly sworn, resumed the stand and testified further as follows:

THE COURT: Will you please state your name for the record, sir?

THE WITNESS: My name is Jose Pinson.

CROSS EXAMINATION (resumed)

BY MR. GREENSPAHN:

Q Mr. Pinson, the other day you brought with you the records of the motor vessel COROMOTO. Do you recall that?

A I recall that.

Q And the voluminous records that you brought with you concerned themselves with a master's oath and a customs inward form manifest for more than one date, did they not, sir? In other words, the several entries made by the COROMOTO into the port at San Juan?

A The manifest I brought to you yesterday pertained to just one entry of the vessel.

Q One entry?

Pinson - cross

A For September 9.

Q Now, that being the case, I would show you the exhibit and ask you to direct your attention to the large paper first in the exhibit indicated as "Inward Foreign Manifest" and I would ask you with particular regard to the notation made as to the registry of the vessel to describe particularly what has been written there and what deletions, alterations or modifications have been made of the entry.

A This manifest was presented to the marine section of the United States Customs, together with the registry of the vessel. At the time the marine officer was making the entry of the vessel, on checking the information shown on the inward manifest against the documents presented for inspection, he noticed that the registry was issued at Madrid instead of Barcelona, and he made the correction to show Madrid. Also the date of the issuance of that document was shown as the 17th of February, and he made the next correction to show that the correct date of the issuance of that document was April 10, 1965.

Pinson - cross

Q Now, sir, who made the original entry of "Barcelona, Spain" in the entry of February, 1965, in that pertinent portion relating to the registry of the vessel?

A Those entries were made by the master or the representative of the master.

Q In other words, the master or his representative gave you an incorrect registry and date of registry of the vessel?

A That's correct.

Q And that was ultimately altered not by the master but by the port inspector or by the port inspector's agent at the port?

A That's correct.

Q And the alterations were written in upon the face of the inward foreign manifest by the customs officer and not by the master?

A It was made by the customs officer.

Q You were not the customs officer who made the alterations, were you, Mr. Pinson?

A I was not.

Q Now, sir, in going through these

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voluminous records, I note there are what are referred to as cargo manifests. What are cargo manifests, briefly?

A A cargo manifest is in the form prescribed by the Bureau of Customs to show all the cargo on board a vessel arriving in the United States.

Q And I also note that there is what is referred to as a provision manifest. What is that, sir?

A May I examine that manifest in order to tell you what that is, because I can't remember that.

Q Yes, sir. What I am going to do is, with the Court's permission, just remove that portion of it.

A That is the manifest for intransit cargo. Let me correct that. This provision manifest is the stores manifest of all the stores the vessel has on board at the time of arrival at the port of San Juan. These are the stores of the vessel.

Q This is for the use of the crew and the officers of the ship?

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Pinson - cross

A That's correct.

Q Are these records that you have brought with you the original records that are retained by the Customs Bureau at San Juan, Puerto Rico?

A That's correct.

Q Based upon your study of these records, what was the nature of the cargo and the purpose of the vessel COROMOTO?

MR. BIERMAN: I object to the line of questions as irrelevant to the issues of whether or not it was a foreign vessel.

THE COURT: I do not think it is material, Mr. Greenspahn.

MR. GREENSPAHN: All right, sir. I will proceed.

BY MR. GREENSPAHN:

Q On the provision manifest I note that there are listed several machineguns and pistols for the use of the crew and the captain.

A That is for the use of the master and the crew of the vessel.

Pinson - cross

Q This was a cargo ship?

A That was a cargo ship, sir.

Q Not a ship of war?

A No, sir.

Q Finally I note on the back of the last page of these records written by someone--and I don't know who--the words "Santa Marta." Will you explain that to me, sir?

A May I check the manifest, sir?

Q Yes, sir.

A That shows that this cargo on this page is destined to Santa Marta.

Q Where is that, sir?

A Colombia.

Q And is that the only page of the entire thing that has any notation other than the facts that you have already established for us?

A Yes, sir.

MR. GREENSPAHN: Thank you.

Your Honor, I would respectfully move to strike the entirety of the exhibit. The basis of my motion is that it now becomes manifest that

alterations were made with regard to the registry, point of registry and the date of registry; that the captain's declarations were made erroneously and falsely and that a person other than the captain or the master of the vessel made an entry upon the face of the customs records reflecting what it purports to reflect as to the registry of the vessel.

THE COURT: Objection overruled.

MR. GREENSPAHN: Thank you, sir.

MR. BIERMAN: We have no redirect, your Honor.

THE COURT: May this gentleman be excused?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right, sir. You may be excused and go back. And give my congratulations to Mr. Ferre.

THE WITNESS: Thank you. I'll be very happy to do that.

(Witness excused)

MR. BIERMAN: The Government's telegram portion of the case is complete, and we would request permission to publish the translations to the jury at

this time.

THE COURT: All right, sir.

MR. GREENSPAHN: Is this going to be a literal translation or a common sense translation?

MR. BIERMAN: We will be glad to give them both.

THE COURT: He can publish either or both. And if he publishes only one, I'll give the defendants the privilege of publishing the other at the time he concludes.

MR. BIERMAN: Government's Exhibit No. 1, ladies and gentlemen of the jury, is this Western Union telegram addressed to Licentiate Gustavo Diaz Ordaz, Palace of the Government. The translation, which is in evidence as Government's Exhibit 1A, reads as follows in the sense translation:

"Because petitions of the Cuban people have been ignored, we are obliged to send a military ultimatum to your government to suspend all commerce with the Communist Regime of Cuba STOP If you do not do this, you alone will be responsible for having

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Mexican ships and planes dynamited
STOP To avoid future regret, do not
make the big mistake of underestimating
this warning from Cuban Power STOP"

And it is signed "Ernesto, General
Delegate of Cuban Power." It is dated June 6, 1968,
and the destination is "Mexico, D.F."

The literal translation is as follows:

"Neglectful case of petitions Cuban
people obliges us ultimatum of war to
your Government that it suspend all
commerce with Communist regime Cuba
PERIOD Not to do thus you will be solely
responsible that Mexican ships and planes
blow up dynamited PERIOD To avoid future
lamentations do not commit big mistake
underestimating this warning Cuban Power
PERIOD"

It is signed "Ernesto, General Delegate
Cuban Power."

Government's Exhibits Nos. 2 and 2A
are a Western Union telegram addressed to General
Francisco Franco, Madrid, Espana. The sense

translation is as follows:

"Because petitions of the Cuban people have been ignored, we are obliged to send a military ultimatum to your government to suspend all commerce with the Communist regime of Cuba STOP If you do not do this, You alone will be responsible for having Spanish ships and planes dynamited STOP To avoid future regret, do not make the big mistake of underestimating this warning from Cuban Power STOP."

And it is signed "Ernesto, General Delegate of Cuban Power." This is dated June 6, 1968.

The literal translation of it reads as follows:

"Neglectful case of petitions Cuban people obliges us ultimatum of war to your Government that it suspend all commerce with Communist regime Cuba PERIOD Not to do thus you will be solely responsible that Spanish ships and planes blow

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up dynamited PERIOD To avoid future lamentations do not commit big mistake underestimating this warning Cuban Power PERIOD"

And it is signed "Ernesto, General Delegate Cuban Power."

No. 3 is--

THE COURT: Is it any different from the others?

MR. BIERMAN: It is, your Honor.

THE COURT: All right. You may read it then.

MR. BIERMAN: Government's Exhibit No. 3 is a Western Union telegram addressed to Sir Harold Wilson, London, England. The sense translation is as follows:

"British freighter 'Granwood,' owned by shipping company, exploded May 5, 20 miles southeast of Key West, has hidden the fact that it was dynamited in an act of sabotage by anti-Castro Cubans STOP The British government has said nothing STOP We want you to know that this is the

initial punishment by the heroic Cuban people of the British government which trades with the Castro tyranny STOP You will have to pay with much British blood for your opportunist attitude inspired by financial gain without any respect for peoples who are fighting for liberty which you only know how to defend with gold STOP"

It is signed "Ernesto, General Delegate of Cuban Power."

The literal translation is as follows:

"Shipping company owning British freighter 'Granwood' COMMA blown up May 5 20 miles southeast of Key West has hidden dynamiting in sabotage realized by anti-Castro Cubans PERIOD You should know this is initial punishment by heroic Cuban people of British government which trades with tyranny of Castro PERIOD You will have to pay with much British blood for your opportunist attitude inspired by financial gains without respecting peoples who fight for liberty which you only know

how to defend with gold PERIOD"

THE COURT: All right. Call your
next witness.

MR. BIERMAN: The Government calls
Ricardo Morales Navarette.

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THE COURT: All right, gentlemen. You may proceed.

THEREUPON--

RICARDO MORALES NAVARETTE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Ricardo Morales Navarette,
Miami, Florida. Salesman, self-employed.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Morales, where were you born, sir;
and, if you would, speak loudly enough so that the
last juror in the last seat can hear you.

A June 14, 1939, Havana, Cuba.

Q When did you come to the United States?

A November 29, 1960.

Q What is your native language, sir?

A Spanish, sir.

Q When, if ever, sir, did you have
occasion to first meet Dr. Orlando Bosch?

Navarette - direct

A Back in 1962, at the end of 1962, and in the summer of 1963.

Q Did you have any dealings with him at that time?

A Yes, sir.

Q Who arranged this, if anyone?

A He was introduced to me through Aimee Miranda.

Q And the Orlando Bosch that you have spoken of, and the Aimee Miranda that you have spoken of, are they in the courtroom today?

A Both of them, sir.

Q Will you point them out, please?

A The one with the glasses, and she is the lady there.

MR. BIERMAN: Let the record reflect that the witness has identified the defendant Dr. Orlando Bosch Avila and the Defendant Aimee Miranda Cruz.

THE COURT: All right, sir.

BY MR. BIERMAN:

Q Did there come a time when you

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discontinued dealing with them, without telling us the reasons?

A Yes.

Q Then did there come a time when you renewed your friendship with Dr. Bosch, or your acquaintance?

A Yes, sir.

Q When was that, sir?

A I don't understand your question.

Q When was it that you renewed your acquaintance with him?

A This year, sir.

Q Around what time?

A April.

Q Where was it, if you recall?

A It was in the morning of the 25th of April. I was traveling in the southwest section, on 1st Street, going east, and I ran into Dr. Bosch. He was riding in a black Falcon that was driven by some other fellow, another individual. And I waved to him and he waved to me, and we stopped at 1st Street between 7th and 8th Avenues in the southwest

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section.

Q Do you know who that other individual was?

A Not at that time.

Q Do you know now, sir?

A Yes, sir.

Q Do you see him in the courtroom?

A Yes, sir.

Q Will you point him out, sir?

A The one between Dominguez and the other fellow there. I don't know who he is.

THE COURT: Well, suppose you step down from the witness stand and point him out so we will know exactly who you are talking about.

THE WITNESS: The one--referring to that one leaning back. That's the one.

THE COURT: All right, sir.

MR. BIERMAN: Let the record reflect that the witness has identified the Defendant Andres Jorge Gonzalez Gonzalez.

BY MR. BIERMAN:

Q Did you and Dr. Bosch have any

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discussion at this time, sir?

A Yes, sir.

Q What did you discuss?

A He started asking me questions about my past arrests, and after that I asked him questions about a late document that was published on January 20 with the signature of the so-called Ernesto, and he said--

MR. GREENSPAHN: Objection, your Honor.

I would respectfully move to suppress the testimony of this witness. I think the argument would be better to be made out of the presence of the jury.

THE COURT: Ladies and gentlemen, will you excuse us for a few minutes? The same instructions, of course, are still applicable.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

MR. GREENSPAHN: Your Honor, I have been provided with the 302 material by the Government,

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and it is apparent, from the reading of these 302s, that Mr. Morales was a paid informer at the time of his contact with Dr. Bosch initially in April, 1968; that Mr. Morales undertook, pursuant to directions from his superiors in this instance--I believe the FBI--to engage Dr. Bosch in conversations of a nature that might be incriminating to Dr. Bosch; that during the course of the many meetings of these two parties there were planted and hidden tape recorders and recordings made of the conversations between Dr. Bosch and Mr. Morales and other individuals who stand before this Court as named defendants; that throughout the course of the meetings and several conversations involving this witness while he was in the employ of the Government, he was acting as a conduit for information, using himself as bait, using himself as a means of extracting from these defendants possible admissions against interest by them.

I submit, your Honor, under the authority of the case law, particularly the Osborne v. United States case, the Fourth Amendment constitutional sanctity of privilege against self-incrimination has

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been violated; that anything this witness might henceforth say from this witness stand concerning any conversations that he had with any of these defendants would be a violation of that guaranteed constitutional right against self-incrimination; that at all times Mr. Morales was acting as a conduit. He was acting as a receiver of information for the Government; that no explanation of his position in the matter had ever been given to these defendants prior to this prosecution; that the recordings that he ultimately made and which will probably be the subject of his present testimony were all made in contravention of the common law of the United States and of the Fourth Amendment to the Constitution.

This essentially is the basis for the motion to suppress. I feel if this testimony is to be permitted, it should be permitted only after it is proffered by the Government to the exclusion of the jury before the Court so that the Court can, accordingly, rule as each occasion presents itself. And I anticipate there will be several occasions during the course of this testimony that the matter will become

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germane.

I think that to permit him to talk about these things without the Court having heard the objections as those objections are raised would be a violation of every essential element of the privilege and right that a defendant has before this Court.

I think, as a matter of time saving and as a matter of avoiding unnecessary delay in the course of this trial, the Court would be well advised to consider the testimony of this man outside the presence of this jury and to make such rulings as, accordingly, should be made.

MR. BIERMAN: Your Honor, in response to that, just very briefly, the Supreme Court of the United States decided, in Hoffa v. United States--

THE COURT: Gentlemen, I think I am familiar with the law. I find no present basis at this point upon which to grant the motion.

I will deny the motion. I see no basis at this time.

The mere fact that the man may have been an informant and the mere fact that he may have

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had radio transmitting equipment and that he may have acted as a conduit for the purpose of receiving information would not, in my opinion, render it inadmissible.

Conceivably, as counsel apparently seems to contend, there is a basis, but that merely would go to the weight and credibility which might be given to his testimony.

The fact that counsel apparently is contending that there is a basis for entrapment would constitute a matter of defense and is a matter which may be fully developed on cross examination.

I may well advise counsel that at this time, however, I have consistently held that if the defendants in this case, as I have held in other cases, depend upon entrapment as a defense, the defense of entrapment necessarily admits the commission of the offenses as to which they claim they were entrapped.

MR. GREENSPAHN: We are not asserting that defense at this time, your Honor.

THE COURT: I will at the present time overrule the objection and the motion.

I will further rule that if there is

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anything which should be taken up out of the presence of the jury, I understand that counsel has a dental appointment, but I will hear any such matters and excuse the jury for such period of time after lunch, if necessary, and I will hear and pass upon such matters before they come back.

At the present time the motions are denied.

You may proceed. Bring the jury in, please.

(Thereupon the jury was returned to the courtroom, pursuant to which the following proceedings were had:)

THE COURT: You may proceed.

BY MR. BIERMAN:

Q Mr. Morales, I believe at the time of the recess we were discussing your discussions with Dr. Bosch on April 25 of this year. What was the discussion?

A We were discussing that document that was in the Cuban News Media concerning the so-called

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Ernesto on January 20, and he explained to me that some people have arrived from Cuba, he said, with a suitcase loaded with money and some instructions to establish a Cuban Power organization in the United States.

So I told him, "Listen. I have been in revolutions for a long time, and you can't fool me about some people coming down from Cuba. I got information from different exiles that you are the one behind the--

MR. GREENSPAHN: If the Court please, that is clearly hearsay. I will enter an objection of hearsay as to each of the other named defendants with regard to anything that relates to the defendant Bosch.

THE COURT: Ladies and gentlemen, at this time I will have to advise you that, as I have told you, this indictment consists of several counts. The first count is a conspiracy count. The second count directly charges three of the named defendants with the commission of an offense. The third, fourth and fifth counts relate solely to Dr. Bosch.

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Now, with respect to the conspiracy count, the Court will now charge you that if it is established to your satisfaction beyond a reasonable doubt that a conspiracy did exist such as is charged in the first count and that a defendant was one of the members of that conspiracy, then the acts and declarations of any other member of such conspiracy in and out of the presence of that defendant, if done in the furtherance of the objects of the conspiracy and during its existence may be considered as evidence against any defendant whom you find to be a member of such conspiracy.

When persons enter into an unlawful agreement, in effect they become agents for one another. However, statements of any conspirator which are not in furtherance of the conspiracy or which are made before its existence or after its termination may be considered as evidence only against the person making the statements or doing that act.

Does everybody understand that? The law of conspiracy is a little complicated, and at the conclusion of this case I will give you a full charge

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on it. But in substance, it is, as I have told you, that if you should find that a conspiracy exists, that any statement or act done by any member of that conspiracy may be considered as evidence against all the other persons you find to be members of that conspiracy, but they must be acts or statements made during the existence of the conspiracy and in furtherance of its object. Acts or statements made prior to it or after it has been concluded may be considered as evidence only as against the individual who is making it.

Does everybody on the jury understand that?

(The jury indicates in the affirmative.)

THE COURT: Fine. You may proceed.

BY MR. BIERMAN:

Q Mr. Morales, you were making reference to a suitcase full of money. Will you continue, please, sir?

A Yes, sir. So I told him, "Listen. I have been in revolutions for so many years, and

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through my own research and through my own study of that document, I believe that you are the one behind that document. You are the one signing with Ernesto's name."

So he said "Yes" to me, and he told me, "Well, you know how those things work out in this business."

So he asked me if the FBI had been questioning me about who may I think was the one behind that signature, and I told him yes.

And he said, "Did they mention my name?" And I told him yes.

And he said that the FBI have arrived to the conclusion that he was behind that signature for exclusion--by an exclusion way, because there were only three people that were likely to be behind that Cuban Power.

Q Do you mean by "exclusion" what we would use in English words "elimination"?

A Elimination, sir, that's right. One of them was Major Fleitas and the other one was Felipe Rivero. And he said that Major Fleitas was not

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involved in any local scene, and Felipe Rivero had sold himself out during the time he is in the Dade County Jail to Immigration and the Government.

Q Did you discuss, sir, any function which you might have in relation to Dr. Bosch?

A He asked me if I was willing to help him in furnishing equipment--that means explosives--in the language that we were talking at that time.

Q What language were you talking in?

A Equipment. When I referred to equipment I mean explosives.

Q What language were you speaking in?

A In Spanish.

Q Do you fully understand Spanish?

A Oh, yes. That is my own language.

Q Do you have any special knowledge of explosives?

A I am a demolition expert, sir.

Q You received training at some time or other?

A Yes, sir.

Q At the conclusion of this meeting with

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Dr. Bosch and Mr. Gonzalez, did you make any arrangements for any future meetings?

A Well, Mr. Gonzalez was not present during the conversation. He stepped out of the car and he went across the street to a warehouse where some other individuals were there.

Q Is he known by any other name?

A His nickname is Bombillo.

Q At the conclusion of your conversation with Dr. Bosch, did you make any arrangements for any future meetings?

A He gave me his new telephone number, and he told me that if I want to contact him, it was to be made through Aimee Miranda, and he wants to contact me in the near future to be a source of equipment. That means explosives and--

MR. GREENSPAHN: May it please the Court, your Honor, the witness has chosen to give his testimony in the English language. Could he, therefore, be compelled at this time to give the English equivalent of the nickname that he has given-- Bombillo--which has a very horrendous sound, but it

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isn't horrendous at all.

MR. BIERMAN: We will stipulate that "Bombillo" means "light bulb."

THE COURT: That is what it meant to you, did it not, sir?

THE WITNESS: That's right, sir.

THE COURT: Now we are clear on it.

BY MR. BIERMAN:

Q Did you have occasion to see Dr. Bosch again?

A Yes, sir.

Q When was that, sir?

A That was on June 12 about nine o'clock or nine-thirty. It was at the corner of the restaurant at 12th Avenue and 1st Street, and Miss Miranda passed by there driving her own car, and I waved to her and told her that I want to see the doctor, and she said that she was going up to Marcelino's place where she might reach the doctor there and she will relay that message to the doctor.

Q Did you, in fact, see him later that day?

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A Yes, sir. About ten o'clock he showed up there at the restaurant, and we started--we went into the restaurant and we had a long discussion there.

THE COURT: When you say you went to see the doctor, who are you referring to?

THE WITNESS: I am referring to Dr. Bosch, sir.

THE COURT: All right, sir.

BY MR. BIERMAN:

Q Is that how he was commonly known to you, sir?

A That's right.

Q Did Miss Miranda ever refer to him as the doctor?

A Yes, sir.

Q What occurred, sir? What discussion, if any, occurred at your next meeting?

THE COURT: Who was present now?

BY MR. BIERMAN:

Q Who was present at that time?

A Only Dr. Bosch and myself.

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Q Where was that, sir?

A Inside the restaurant.

Q That was on June 12?

A On June 12, sir.

Q What discussion took place?

A We discussed the bombing of the GRANWOOD, we discussed the bombing of the OSAKA MARU in Tampa Bay, and we discussed the fact that he wanted some more explosives for future operations, and he said that he was going to show up as a delegate to the civilian coordinator for Cuban Power, and the so-called Ernesto was going to name him as his personal delegate for Cuban Power. We discussed the amount of the charge that was placed at the GRANWOOD, ten pounds of C4 plastic explosive; that it was a very big disgrace that the OSAKA MARU went off in Tampa Bay, for the thing that he wanted was for that ship to blow up outside in the middle of the sea because he was anxious to see all the Japs swimming and screaming "Wee, wee, wee" while the ship was sinking.

Q That is what he said to you, sir?

A That's right, sir.

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He also disclosed that there had been a pretty short press freeze concerning the GRANWOOD explosion; that, in his opinion, the news had been hidden from the Government; that the FBI was breathing on his neck; that the FBI knows that he was Ernesto, and he required more explosive equipment and some underwater equipment to work on.

Q What type of underwater equipment was that, sir?

A We talked about the rebreather equipment.

Q Would you explain to the Court and the jury what a rebreather is.

A A rebreather--the proper name is a minilung. It is equipment, very small, that has an oxygen tank that is filled with some medical oxygen and it has also got a filter and that works out as a lung so you can use that oxygen over and over again. So the oxygen goes into the canister and that canister is loaded with some granules to purify the oxygen and you can use it again, the same oxygen, and there are no bubbles coming up to the surface of the water; so

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no one will be able to detect that there is a diver underneath.

Q If someone is diving with scuba equipment without a rebreather, are the bubbles apparent on the surface?

A That's right, sir.

Q Did you, sir, in fact ever deliver the rebreather equipment to Dr. Bosch?

A I'm not finished with the conversation, sir.

Q I'm sorry. Go on with the conversation.

A And he said that he also have sent a telegram, a challenge to the government of England, challenging them to disprove that the GRANWOOD was an accident; that the GRANWOOD was actually a bomb that went off.

Q Did he discuss with you, sir, anyone else who was working with him?

A He disclosed the names concerning the use of the rebreather equipment in the future, saying that Bombillo will check on that rebreather.

Q That is the same person you referred

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to before as Andres Jorge Gonzalez Gonzalez, is that right?

A Yes, sir.

Q Did he discuss anyone else who he had working for him?

A He mentioned again Aimee as a contact or go-between between him and I, and he disclosed also Marcelino and a guy by the name of Bobby.

Q Do you know who that Bobby would be?

A Right now, yes, sir.

Q Who is that?

A He's the one next to that fellow--I don't know who he is--that is, next to Gonzalez there, the one next to--

Q Will you come down and point him out, please?

A He's the one (indicating).

MR. BIERMAN: Let the record reflect that the witness has identified the defendant Barbaro Balan Garcia, also known as Bobby.

THE COURT: All right, sir.

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BY MR. BIERMAN:

Q Did you then have occasion to deliver this rebreather equipment?

A Yes, sir.

Q When and where was that?

A That was at my apartment on June 15.

Dr. Bosch showed up there with Gonzalez, and I got the minilung there and I showed it to him, and I placed it on the person of Gonzalez and I showed him how to work out with the rebreather and I showed him the canister and the different procedures of the operation of that rebreather, and I told him at that time I do not have any granules to go to fill out the canister.

Q Did he ask you any questions during the course of that about little things on the rebreather?

A Oh, yes, sir. I went into a full description of the operation of that minilung. So I told him again I had no granules. And he asked me for one hundred pounds of gelatin-type dynamite plus the granules.

Q Was that the conclusion of that meeting, sir?

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A That's right, sir.

Q When did you next see Dr. Bosch?

A I next seen him on about the 22nd of June again. I gave him the granules for the rebreather.

Q And how were they packaged, sir?

A It was packaged like in one of those milk containers.

Q The plastic container?

A Plastic containers.

Q Do you recall what was written on them?

A Baralyme was the name that was written.

Q Is that the correct name of the granule?

A Yes.

Q You stated, sir, that you discussed the delivery of a hundred pounds of gelatin dynamite, is that right?

A That's right, sir.

Q And did you, in fact, make a delivery?

A Yes, sir.

Q When and where was that, sir?

A I delivered the dynamite on July 2nd

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at my apartment.

Q How was that packaged, sir?

A That was packaged in boxes bearing the name of the manufacturer, the duPont Company, "Dynamite-Dangerous," and so on.

MR. BIERMAN: Will you mark this as Government's Exhibit No. 19?

(Thereupon the box referred to was marked as Government's Exhibit No. 19 for identification.)

BY MR. BIERMAN:

Q I show you what has been marked as Government's Exhibit No. 19 for identification, sir, and ask you, sir, if this is the box which is like the box which you delivered.

A It looks alike, and it should have a "D" some place here. It's a dummy. Right here (indicating).

Q Was this the size and shape of the box, sir?

A Yes, sir.

Q And did the same markings appear on it--

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"duPont"?

A Yes, sir.

MR. BIERMAN: I would offer Government's Exhibit No. 19 as an example of the type of box which was used.

MR. GREENSPAHN: I object, your Honor. The best evidence is the box itself. And as the witness has indicated, there should be a "D" on here indicating dummy. And there is no "D" on here. Oh, yes, there is. But this is not the real box. And the best evidence--

THE COURT: Is this box identical to the one you delivered?

THE WITNESS: Yes, sir.

THE COURT: The objection is overruled, with the understanding and statement to the jury that this is merely to help you understand and explain the evidence to you. It is not the original box but merely an exact reproduction of the original box which the witness has testified about.

You may proceed.

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(Thereupon the box referred to
was received in evidence as
Government's Exhibit No. 19.)

MR. BIERMAN: Will you mark this as
Exhibit No. 20, Mr. Clerk, please?

(Thereupon the container referred
to was marked as Government's
Exhibit No. 20 for identification.)

BY MR. BIERMAN:

Q You stated, Mr. Morales, that you
delivered a package of granules to Dr. Bosch. Would
you examine what has been marked as Government's
Exhibit No. 20.

A It looks alike, sir.

Q Would you examine the writing on it?

A That's right.

Q Is this the same type?

A The same writing, the same type.

MR. BIERMAN: We would offer, your
Honor, this exhibit under the same ruling as Exhibit
No. 19.

THE COURT: Subject to the same

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objections, which are overruled, and with the same explanation to the jury, the box is admitted in evidence. Again, as I say, it is merely to help you understand and explain the evidence to you. They are not the originals but they are supposed to be identical with them.

(Thereupon the box referred to
was received in evidence as
Government's Exhibit No. 20.)

BY MR. BIERMAN:

Q Where did you get this box, sir?

A At the Howard Johnson located on 27th Avenue and 36th Street.

Q Who gave it to you?

A Special Agent Joseph C. Ball of the FBI.

Q Did you, sir, know that it was dummy dynamite?

A Yes, sir.

Q Did you, sir, at any time communicate the fact that this was not genuine dynamite to Dr. Bosch?

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A No, sir.

Q Who was present at the time of this delivery?

A After I picked up the dynamite at Howard Johnson, I went to my apartment, and when I arrived there, I saw parked outside on the street two cars, one a white '64 Ford two-door that I recognized as belonging to Dr. Bosch's wife, and a '62 green Oldsmobile, two-door. Dr. Bosch was behind the wheel of the white Ford. So I waved to him and I went into the driveway and to the back of the building. So after a second, there was a car getting into the driveway, also. The '62 green Oldsmobile was driven by a white male individual with long sideburns and Dr. Bosch next to him. That individual was introduced to me as Tony Prieto.

Q Do you see that individual in the courtroom today?

A Yes, with the yellow suit coat.

MR. BIERMAN: Will the record reflect that the witness has identified the defendant Jose Diaz Morejon, also known as Tony Prieto?

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THE COURT: All right, sir.

BY MR. BIERMAN:

Q What then occurred, sir?

A They asked me if I got the dynamite and I told them, "Yes, in the trunk of the car." So they opened up the trunk of the '62 Oldsmobile-- before we switched the boxes containing the dynamite, he asked me, "Any dangerous to explode the dynamite if we drop it on the floor?"

I told him no. So I grabbed one of the boxes and smashed it against the floor.

Q And with genuine dynamite is there any danger of your dropping it?

A No, sir.

Q How is genuine dynamite exploded?

A With blasting caps.

MR. GREENSPAHN: If it please the Court, there has been no qualification of this witness to express an opinion.

THE COURT: I agree with you.

MR. BIERMAN: I will withdraw the question.

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BY MR. BIERMAN:

Q Was Mr. Prieto present during this dropping?

A Yes, sir.

Q And the discussion of the dynamite?

A Yes, sir.

Q What, sir, is the Spanish word for "dynamite"? How is that spelled?

A Dinamita, d-i-n-a-m-i-t-a.

Q What is the Spanish word for "explosive"?

A "Esplosivos."

Q Of course, the box was marked in English, is that correct?

A That's right.

Q As it appears with "dynamite" and "explosive"?

A That's correct.

Q Did you have any discussion with Dr. Bosch after Mr. Prieto left if, in fact, he did leave?

A Yes. He left after he placed the suitcases of dynamite in the trunk of the car.

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So he said only that he has now, you know, a couple of more bombings and he will show up at a press conference as the delegate of the so-called Ernesto, and he makes a requirement for more deliveries of equipment in the future and the way to contact him, et cetera.

Q Did you, in fact, see him again?

A Yes, I did, sir.

Q When was that?

A It was on July 16 at the--

Q When and where and who was present?

A At the restaurant on 12th Avenue and 1st Street.

Q Who else was present, if anyone?

A He showed up there with the one that he introduced to me before as Tony Prieto and another individual with sideburns, and he didn't introduce him to me.

Q Do you see that individual today? --

A Yes, the one next to Gonzalez with the long sideburns there.

MR. BIERMAN: Will the record reflect

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that the witness has identified the defendant Jesus Dominguez Benitez, also known as El Isleno.

Q What discussion occurred?

A We discussed first the MIKAGESAN MARU, and I told him that there was some news release concerning the explosion on the MIKAGESAN MARU, and he avoided the question, and he said it might be an accident. We discussed also future deliveries of the equipment and we discussed also--he arranged for a meeting with Theofilo Babon concerning some sort of contributions to Cuban Power, and I asked him if he was going to disclose his identity, and he said, "No, I'm not going to tell him."

Q Was there anything else discussed at this time?

A He revealed that he was interviewed by two FBI agents at the Everglades Hotel concerning his activities.

Q Did he say whether or not he learned anything from this interview?

A Later on, yes.

Q But not at that time?

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A Not at that time.

Q When did you next have occasion to meet him, if you did?

A About five or six days after, at my apartment. We discussed again the MIKAGESAN MARU, because there was published a document taking credit, signed by Ernesto, about the bombing of the MIKAGESAN MARU, and he said that he learned from those two FBI agents that interviewed him at the Everglades Hotel that the MIKAGESAN MARU went off, and that is when he sent the document to the different news media containing pictures of the MIKAGESAN and a document with the signature of the so-called Ernesto.

Q Did he discuss with you, sir, what method was used in exploding the explosives at that time?

A We discussed--I asked him about the type of device he was using concerning the bombs, and he discussed a very peculiar timing device that has two batteries, that when they die they active a third battery and that third battery activates a relay that sends the electrical impulse to the electrical

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blasting cap, and that thing has got two knobs, one as a safety and the other one that activates the two batteries.

Q Could you draw that device for us, Mr. Morales?

A All right.

MR. GREENSPAHN: The witness did not say he saw this alleged device. He said it was described to him.

THE COURT: Well, draw what was described to you.

BY MR. BIERMAN:

Q Did you also, in fact, see a drawing of it at that time, sir?

A Well, he made it on a piece of paper there.

Q Would you draw for us, as best you recall, what Dr. Bosch drew for you, please?

A (Witness complies) I have marked with the letter "B" battery, "R" is the relay, and two knobs with an "N," sir.

MR. BIERMAN: I would offer into

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evidence, your Honor, this drawing as Government's Exhibit No. 21.

MR. GREENSPAHN: I object. It is not drawn to scale, it is not purportedly anything more or less than what the man has described to be his recollection of something that was either described to him or shown to him. There is no qualification that this man is sufficiently qualified as an engineer or as an electronics expert to designate batteries and relays and whatever else these things are. And it is not relevant and material. And it is repetitious. He already described it verbally.

MR. BIERMAN: We will connect it up at a later time, your Honor.

THE COURT: Is that similar to the drawing that you saw in the conversation that you heard?

THE WITNESS: That's right, sir.

THE COURT: All right, sir. The objection is overruled. The document is admitted into evidence.

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(Thereupon the drawing referred to was received in evidence as Government's Exhibit No. 21.)

THE WITNESS: Sir, may I have a little recess. I have to go to the service room.

THE COURT: Ladies and gentlemen, we will be in recess for about five minutes. The same instructions, of course, are still applicable.

Court will be in recess for five minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: You may proceed.

BY MR. BIERMAN:

Q Mr. Morales, at the time of the recess you had completed making a drawing. Did that conclude that conversation with Dr. Bosch?

A I beg your pardon, sir?

Q At the time we had the recess, you had testified about having a conversation with Dr. Bosch and talking about a timing device and you had drawn a

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diagram of it.

A That's right, sir.

THE COURT: Now he has asked you, was that the end of the conversation, or was there anything else?

A No, sir. He pressed me again for the delivery of more explosives and future minis.

BY MR. BIERMAN:

Q Did you have occasion to speak with him again?

A On August 5 he was in some sort of a desperation because he was convinced something was going on at the time and he wants to produce some hits by that time, and he--

Q Did he tell you that?

A That's right, sir.

Q All right. Did you speak to him on August 5?

A That's right, sir.

Q Was that in person or on the telephone?

A Briefly on the telephone, sir.

Q Could you recognize his voice?

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A That's right.

Q No difficulty in recognizing it?

A No difficulty, sir.

Q Did you talk to him again?

A The next day.

Q What was the discussion about the next day?

A At my apartment, sir.

Q About what?

A He said that there have been some failures in the past, that some bombs have not detonated, and he was attributing those failures to the fact that the bombs had been chained to the propeller rods, they have been loosened and caught by the propellers of the ships; that he was in some sort of a state of desperation about showing up as the delegate for Ernesto, and that he was going to claim credit for everything that was going on down there in the Cuban Power organization and attributing it to his Cuban Power organization.

Q Did he ever tell you that he was, in fact, responsible for that?

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MR. GREENSPAHN: Objection as a leading question.

THE COURT: I will sustain the objection.

BY MR. BIERMAN:

Q Did you see him after the 6th?

A Yes, sir.

Q When was that?

A August 12th. In fact, the night before I let him know through a co-assistant that we had already established by a whistle on the telephone that he was to show up two hours after that in my apartment. So I just whistled in the telephone and he went on August 12 to pick up the dynamite.

Q Did you have occasion to meet with him on August 7th?

A (No response)

Q You had a telephone conversation and then another meeting?

A On August 6, sir.

Q Was there a meeting after that but prior to the 12th?

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A Yes, sir, there was. There was a meeting prior to that time.

Q When was that and where?

A I got one before August 12, that's right, sir.

Q There was a meeting between the 6th and the 12th?

A Yes, when we discussed the CARIBBEAN VENTURE.

Q What discussion did you have in relation to the CARIBBEAN VENTURE?

A He told me I should feel very proud that the dynamite that I have furnished him was used in the CARIBBEAN VENTURE. So that shocked me.

Q What's that?

A Shocked me.

Q It shocked you?

A Yes.

Q Then in addition to that discussion between the 6th and the 12th was there anything else said at this time?

A Well, that he needs at least four

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cases of fifty pounds each of them of dynamite, plus C4, and was it available. I told him, "No, forget about the C4, forget about pentolite and TNT. Only dynamite is available."

Q When did you next see him, sir?

A The night before the 12th.

Q Where was this?

A At his home. I showed up there and told him I was going to be available to make another delivery of explosives the next day in my apartment.

Q Then did you, in fact, see him the next day in your apartment?

A The next day I whistled on the telephone and he showed up there, and I told him that we have to postpone the delivery until the next day.

Then he said, "Well, the next day I have to be at the parking lot in the rear of the 1150 Building on 1st Street between 12th and 11th Avenues in the southwest section."

Q Did you have any other conversation at that time?

A Well, again he started complaining

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about the failures, and I told him it could be that water is leaking into the mines. He said no, the mines were waterproof and he said that he has got to produce some hits and show up at a press conference and to be named as delegate for Ernesto.

Q Did you have any further discussion of the CARIBBEAN VENTURE?

A At that time, yes, sir, because I was concerned about his statement that my equipment had been used on the CARIBBEAN VENTURE, and I asked him how much he used, and so on, and then he said that he already have found some dynamite from a different company, and he put part of my equipment and part of the equipment that he got in the mine at the CARIBBEAN VENTURE, a big reason that the CARIBBEAN VENTURE went off in port.

Q Did he say why that was?

A Because otherwise the ship was supposed to sink in the middle of the ocean.

Q Did you then, after this meeting, have occasion to meet with him again?

A The next day, sir.

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Q Where was that?

A The parking lot at the rear of the
1150 Building.

Q Did you bring anything with you, sir?

A Yes, sir.

Q What was that?

A A case of duPont dynamite.

Q That was one case?

A One case, sir.

Q Was that of the same type as was
marked Government's Exhibit No. 19?

A Yes, sir.

Q Who else was present, sir?

A When I arrived there, there was two
cars--a blue '61 Chevy with West Virginia plates in
the front, belonging to him, and a white '57 two-
door Chevrolet driven by the same fellow that was
introduced to me before as Tony Prieto.

Q That is the same individual that you
described before as Tony Prieto?

A That's right, sir.

Q What did you do with the box?

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A They switched the box from the car I was driving at the time, the red Corvair, to the trunk of the '57 Chevrolet and took off with the box.

Q At the conclusion of this transfer, did you make any other arrangement?

A Yes, sir. We arranged for the next day, the same place, the same time, for another delivery of explosive.

Q Did that delivery take place, sir?

A Yes, sir.

Q Who was present?

A Only him, riding in the '61 blue Chevrolet.

Q When you say "him," to whom are you referring?

A Dr. Bosch.

Q Where, sir, did you get these two boxes of dynamite?

A At the St. Clair-Boulevard cafeteria. You can use both names. It's on Biscayne Boulevard. I got it from Agent Joe Ball and George Davis.

Q That is FBI Agent Joseph Ball and

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George Davis?

A FBI agents. Agent Grogan was present in one of them.

Q In addition to Agent Ball and Agent Davis, Agent Grogan was present?

A Yes. One of the agents--Benjamin Grogan--was present on one occasion.

Q Did you make any arrangements on the 14th for future deliveries?

A Yes, sir. When I arrived there, we switched the box from my car to his car, and he said that he was going to get Gonzalez at the restaurant and Gonzalez was supposed to be there waiting for him to deliver the dynamite. So the last time I saw him that night was he was walking to the restaurant and I took off.

Q Did you make any further deliveries?

A Yes, sir.

Q When was that?

A That was about the 22nd.

Q Where was it, sir?

A Well, I met him in his own place on the

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night before, and I told him that the next delivery got to be the next day but during the daytime. So he instructed me to go to 735 Southwest 1st Street. That is the home of Barbaro Balan, Bobby's place.

Q That is the same individual that you identified previously?

A Yes, sir.

Q All right. Did you do that?

A Yes, sir. The next morning I was there about eleven o'clock, and I drove into the rear of the house and Bobby came out and I told him, "Listen. You know the reason why I am here?"

He said yes.

And I said, "What about the doctor?"

And he said, "Well, he should be here in a moment." And he said, "You want me to take it?"

I told him no. "I have got to give it to him in person."

So I went out again from the driveway in back of the house and parked the car in front of the house and went into it and waited there for the doctor.

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So after a while he showed up there in his blue '61 Chevy and Jorge Gutierrez was also with him.

Q Now, do you see the individual that you call Jorge Gutierrez in the courtroom?

A Yes. The one with the green coat next to Dr. Bosch.

MR. BIERMAN: Let the record reflect that the witness has identified the defendant Jorge Luis Gutierrez, also known as Jorge Gutierrez.

BY MR. BIERMAN:

Q Then what occurred, sir?

A I drove again into the driveway to the back of the house, and Bobby got the case of the explosives, put it into the house, and I drove out. And at the time Dr. Bosch told Jorge to get the '61 Chevrolet and pull it in, but at the same time the telephone call was made. They received the telephone call there for the doctor. So I took off. They told me, "Well, let's go," and I took off and I don't know what happened after.

Q Did you make any further arrangements?

Navarette - direct

Before we get into that, where did you get this dynamite?

A The St. Clair-Boulevard cafeteria from George Davis and Joseph Ball, the FBI agents.

Q How many?

A One case, fifty pounds.

Q Like Exhibit 19?

A Yes, sir.

THE COURT: Was this in sticks or--

THE WITNESS: In sticks, sir.

BY MR. BIERMAN:

Q Did you, on any occasion, have an opportunity to examine the contents of the box?

A Yes, sir, I did.

MR. BIERMAN: Mark this as Government's Exhibit No. 22.

(Thereupon the stick referred to was marked as Government's Exhibit No. 22 for identification.)

BY MR. BIERMAN:

Q I show you, sir, what has been marked as Government's Exhibit No. 22 for identification and

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ask you to examine that carefully, including the writing.

A It looks alike, the ones I have been furnishing them.

Q This looks like what you had been furnishing them?

A That's right.

MR. BIERMAN: Your Honor, I would offer this as an example of what was contained in the box, not necessarily the same.

MR. GREENSPAHN: May I see it, sir?

Your Honor, I would like to know, is this an example or is this supposedly one of the things that came out of the alleged box?

THE COURT: As I understand the witness's testimony, this is similar to what was in the box. It is not one of the objects that he says was contained in the box, but it is like those which were in the box. Therefore, it is offered just as an example or an illustration of what he saw on the box, what his testimony was about.

MR. BIERMAN: That is insofar as this

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witness knows, your Honor.

THE COURT: That's right.

MR. GREENSPAHN: Let me note an
objection to materiality and relevancy, sir.

THE COURT: You may have an objection,
sir. It is overruled. The object is admitted into
evidence at this time merely for illustrative
purposes for the jury.

(Thereupon the stick referred to
was received in evidence as
Government's Exhibit No. 22.)

BY MR. BIERMAN:

Q Have you, sir, during the course of
your life had occasion to see genuine dynamite?

A Yes, sir. A lot.

Q A lot of it?

A Yes, sir.

Q Are you able to readily recognize
dynamite?

A Oh, yes. I can make the difference
between dummy dynamite and real dynamite, sir.

Q And it looks, sir, in relation to

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Government's Exhibit No. 22, does this resemble, sir, genuine dynamite that you have seen in your lifetime?

MR. GREENSPAHN: If it please the Court, until the predicate is laid or until a proper foundation is laid as to the distinction between real dynamite and dummy dynamite, the expression of an opinion has not yet been qualified.

MR. BIERMAN: I am simply asking this witness if this looks like real dynamite. It may be real dynamite.

THE COURT: So far as I know, it might be, too. I really do not know.

MR. GREENSPAHN: Excuse me if I step away from the Bench, your Honor.

THE COURT: I think you had better rephrase your question.

BY MR. BIERMAN:

Q Would you, Mr. Morales, compare for us, sir, the looks--only the looks--of genuine dynamite with what has been marked as Government's Exhibit No. 22 in evidence?

A Sir, if it is dummy explosive or real

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explosive I can tell you just by my eyes, sir.

Q The question is, does this look the same as real explosive whether or not--

A It looks the same as real explosive.

Q That is the way it looks?

A It looks the same.

Q Did you have occasion then after this meeting of the 22nd to make any arrangements for future deliveries of dynamite?

A Yes. On the 26th I went again to his place and I told him that the next day I was going to be able to make another delivery but it has got to be daylight time, ten-thirty in the morning, at my apartment.

Q Did he agree with this or disagree?

A No. He agreed with it.

Q What occurred the next day?

A The next day I received the dynamite as I previously had been receiving the other one at the St. Clair-Boulevard cafeteria from Joe Davis and Joe Ball, agents of the FBI, and I went to my apartment. And then there was a misunderstanding and some

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sort of a mess because he called me and said that he was going to be late, and the time started running on and he didn't show up. So I went to the 735 house belonging to Bobby Balan, and when I arrived there, there were two individuals in the house. One of them who had been at the restaurant with Prieto and Bosch and I identified him, it was his nickname El Isleno.

Q That is the same person who you identified before?

A Yes.

Q That is the gentleman known as Jose Dominguez Benitez?

A Yes.

Q And who else?

A Another one that El Isleno called him by the name of Marcos.

Q Do you see that individual in the courtroom?

A Yes, with the blue coat there.

Q Where is he sitting in relation to Dr. Bosch?

A Behind Dr. Bosch.

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MR. BIERMAN: Let the record reflect that the witness has identified the defendant Marcos Rodriguez Ramos.

BY MR. BIERMAN:

Q What occurred there, sir?

A Well, I told them that I got something for the doctor and that the doctor had not showed up. So they said that they were going out to try to locate the doctor. So I lease my car to Marcos because they got no car at the time. So he went out trying to locate the doctor for me. So after a while he returned and he said that he was not able to locate the doctor.

So I told him, "Listen. I have to be at traffic court two o'clock. So I'll be back home about three, between three and quarter after three and let him know that I am going to be there."

So the time ran and I went to traffic court, and about three-thirty, being the fact that no one showed up there, I went back again to the same address, 735 Southwest 1st Street.

So I told them, "What happened with the doctor?" And they said that they had not been able

Navarette - direct

to locate the doctor. They have been looking around for him but they got no car.

Q When you were referring to the doctor, were you referring to Dr. Bosch?

A Yes, sir, I was referring to Dr. Bosch. So they said, "What you got?"

I told them, "I got a case of dynamite," and I told them, "If you want, you can use my car and take the stuff wherever you want." So there was some sort of an argument between the two of them about where to take the dynamite, and one of them mentioned, "Well, let's take it to Ricardito's place." So finally El Isleno--

Q Will you spell that for the Reporter, please?

A R-i-c-a-r-d-i-t-o.

So El Isleno went out to my car and we went to the rear of the building, and we switched the dynamite from the red Corvair to the brown Pontiac that belongs to me.

Q Will you describe that with colors, please? Is it painted?

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A It is painted brown with a light brown top; a '64 Tempest Pontiac four-door.

So we placed the box of dynamite in the trunk of the car and he took off, and after about an hour or an hour and a half he showed up again there, and he asked me to give him a ride to his brother's apartment. And I drove him up to 12th Avenue between 1st and 2nd Streets in the southwest section.

Q During the course of this time, sir, did you notice anything unusual?

A An airplane, sir.

Q Where was this airplane?

A Circling.

Q Did you then have another occasion to meet with Dr. Bosch?

A Yes, sir.

Q When was that?

A That was about September 4 when he started complaining about failures, bombs that had not been exploding, and he started complaining that he got to find out the way and the means to show up in front of everyone as a delegate for Ernesto, but

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that he won't be able to do that unless he can make a few hits.

Q And after that, was anything else discussed at that meeting?

A Not that I recall at this time, sir.

Q After that, did you have another occasion to meet with him?

A Yes, sir. It was the same day that I returned from an R and R trip to the Keys. "R and R" means rest and relaxation, sir.

Q How long was that after the meeting of the 4th?

A Just a few days, because it was Sunday eight o'clock when I arrived down from the Keys.

Q Where was this?

A He called me on the telephone, and he told me, "Listen, Morales, the equipment is not good."

So I asked him, "Where are you now?"

He said, "I am home."

So I told him I'm going to drive up there. So I relayed the information to Agent Joe Ball concerning that he was complaining about the fact that

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the equipment was no good, the dynamite was not good, was not exploding.

So I went to his apartment and he told me, you know, the story that people from Puerto Rico have been complaining that the stuff was not good and maybe that is the reason for the failures. So we have a long discussion again about the timing devices that have been used in the bombs and maybe the possibility that the water was leaking into the canister, into the bomb, and he said, "Well, no, those bombs are water-proof for the fact that we drill little holes and we pump air into them and after that we submerge them in a water tank just to see if the air bubbles are coming out. So they are foolproof.

So I told him, "Well, listen. We better try and go out and test one of the dynamites." I asked him, "How much dynamite you got left from the ones I've been supplying you?"

He said, "Well, about a case I got left over."

So I told him, "Well, listen, let's go out and test it so I can tell you if it's phony or

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not."

Q Did you, in fact, do that?

A Oh, yes, sir.

Q What was the result of the test?

A Well, he showed up a few days after, about four or five days after, maybe around the 10th.

MR. GREENSPAHN: Your Honor, that is not responsive to the question.

THE COURT: All right, sir. You are right.

MR. BIERMAN: I will withdraw the question and move that the answer be stricken.

THE COURT: You were questioning the witness and he has been testifying about a test being made and you switched to a different subject.

BY MR. BIERMAN:

Q This test that you were referring to, when was this made, sir?

A September 10th. About September 10th he showed up in my apartment and he told me, "Let's go out and test the equipment."

So I told him, "We're going to use your car."

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He said, "No. Let's go in your car."

So he left his car parked in the front of the building, and we went into my car and we started driving around, making some stops and turning the lights off just to see if there were any FBI surveillance, and he said, "We are clean, Ricardo."

So finally we arrived at Aimee Miranda's apartment, and there he got a couple of boxes containing M1 rifle grenades loaded with C4, plus some soap boxes containing pentolite, and he asked me to disassemble the ones that had the firing systems attached to them. So at the time I disassembled all the ones that were having firing devices attached to them.

Q Who else, if anyone, was present?

A Aimee Miranda was there.

Q Did she say anything?

A Oh, she was always complaining about "Be careful, it won't explode," and so on.

Q "Be careful, it won't explode"?

A That's right, sir.

Q Then where did you go? Did you go any

Navarette - direct

place from there?

A Yes. We went to a canal in the back of the airport and close to the Doral Country Club with a stick of the phony dynamite, and I placed a blasting cap in it, and we detonated only the blasting cap; so the dynamite didn't go off.

So he asked me, "What is your opinion?"

I told him, "This is phony dynamite," and then he says, "Well, let's go to see the source," because I had been telling him the name of the person that is my source, the person who he knows, also. And he said, "Well, let's go and see the course."

Q Did you, in fact, go some place?

A Yes. From the canal we went to a certain apartment. In the meantime I asked him, "What about the credit for the LANCASTRIAN PRINCE?"

And he said for the fact that there was in the Miami Herald a press release from the Coast Guard chief in New Orleans that some anti-Castro group have been extending their activities into the Gulf Coast is when he realized that the LANCASTRIAN PRINCE went off. So he sent to the Cuban news media a

Navarette - direct

document--a couple of pictures of the LANCASTRIAN PRINCE plus the document, taking credit to Cuban Power and signed by Ernesto.

Finally we arrived at the apartment of the person that I had been telling him is the source of the dynamite, and he was not there.

Q After this, which was September 10, 1968, you testified, did you then have another occasion to see Dr. Bosch?

A Yes, sir. On September 15.

Q When and where was that?

A It was a Sunday and I was about to get dressed and go out for dinner, and he showed up there about eight or eight-ten or eight-fifteen and he said, "I need you. Do you have any tools or screwdrivers, pliers, et cetera?"

I told him yes.

He said, "Get them and come along with me."

So we went out of the apartment and we jump into his car and he started driving around and doing the same thing about stopping and turning the lights off and so on. So he says, "You see, we are

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clear. There is no FBI surveillance. No one is watching us. They are giving us a free hand."

So we went to Aimee's apartment, and when we arrived there--

Q That is the same Aimee Miranda that you were referring to before?

A Yes, sir. So when we arrived there in his blue '61 Chevy, I noticed that there were two individuals in the dark of the driveway. You have to use the driveway to get into her apartment. And those two individuals were Tony Prieto and Barbaro Balan.

Q The same individuals you identified before?

A Yes, sir.

Q All right. What happened then?

A Well, I was a little concerned about the fact that they were wearing black clothes and the fact that Orlando didn't told me the purpose of that rush-up meeting. And I was a little concerned about some sort of a kangaroo trial and so on. So finally he said, "Well, you know those two guys?"

Navarette - direct

I said, "Yes, yes."

And then he knocked on the door and Aimee answered, "Who is it?"

And he said, "It's me and Morales." So she opened up the door and we went into the apartment.

Q What, if anything, was inside the apartment?

A When I get into the apartment, I saw a 57-millimeter recoilless rifle laying on the floor.

MR. BIERMAN: Will you step down from the witness stand, with the Court's permission, Mr. Morales?

THE COURT: Yes, sir.

You cannot pick that up?

MR. BIERMAN: Not too well, sir.

BY MR. BIERMAN:

Q I show you what has been marked Government's Exhibit No. 8 in evidence and ask you to examine this closely, sir. Do you recognize this?

A Yes, sir. That's the one.

Q And then--

Navarette - direct

THE COURT: When you entered the apartment, what, if anything, did you do?

THE WITNESS: Dr. Bosch asked me to assemble the trigger housing that was not in working condition, and he asked me if I can fix her up. And I told him I was going to try.

BY MR. BIERMAN:

Q In addition, you said that--did Tony Prieto come into the apartment with you?

A Yes, sir. And with Balan, also.

Q And Balan came into the apartment. Was anyone else with you?

A Well, Aimee Miranda was there.

Q Then there were five of you?

A Yes, plus Dr. Bosch.

Q Did you then commence to work on this gun?

A Yes, all of us started working on the trigger housing, and after almost three hours I told him, "Listen, Orlando. The main trouble is with this little spring that goes into the cocking rod." So the next day I can go up to Hialeah and get a new

Navarette - direct

spring. And he said, "No, no. It's got to be tonight."

I said, "Well, the only way you can fix this thing up tonight is for a single shot."

So he said, "Well, let's try and do it that way." And that's the way it was fixed up, to fire just a single shot, because the cocking system was defective for the reason that the spring was out of work, out of condition.

Q Was there a sighting device on the gun?

A There was no scope. So when I mentioned to him, "What did you do with the scope?" there was no scope there.

He said, "Well, it's some place. Down on the Keys," and so on. "Can you fix up a sight for me?"

And I told him, "Yes, I can fix it for you."

So I cut or I split--I can't remember exactly who got it--but from a coat hanger, an L-shaped piece, and I went all through the procedures of sighting the 57-millimeter recoilless rifle.

Navarette - direct

Q I show you, sir, what has been marked as Government's Exhibit 8B in evidence and ask you if you recognize that.

A It looks like it, sir.

Q Looks like the L-shaped--

A That's right.

Q And how was this cut, sir? Was this with your pliers?

A With my pliers, sir.

So we bore sighted the 57-millimeter rifle against a picture that was on the wall, featuring some sort of roses with a little piece of adhesive tape that Dr. Bosch placed on the surface of that picture.

Q How was this L-shaped piece of coat hanger fastened to the gun, if it was, sir?

A At the end of the muzzle, sir.

Through the procedure of bore sighting a 57-millimeter, you have to attach a couple of springs at the end of the muzzle of the rifle so you will have a cross. So when you open the breech, you can look through the barrel of the rifle so you will see where those two

Navarette - direct

strings make the cross. So you sight those two strings there at that point there through the point that you already have marked to be that piece of tape. It could be a telephone pole or any objective that you want. So it requires two persons to do that. So one is looking through the sight, through the barrel of the 57-millimeter and the other one is looking above the rifle. So when the two eyes are more or less on the same position, that is when you got the rifle sight so you can move it to the left or to the right, back and forth, et cetera. It is a homemade sight, anyway. You have the same procedure with the scope.

Q How, sir, was this L-shaped piece of coat hanger attached to the gun?

A With adhesive tape, sir. There were two strings attached to the end of the muzzle, plus the L-shaped piece of coat hanger.

Q I show you, sir, what has been marked Government's Exhibit 8A and ask you if this is the type of tape and the type of string that was used.

A It looks alike, sir.

Q Was any ammunition available at that time, sir?

Navarette - direct

A After we sighted the 57, I left over there two screws or bolts.

Q Don't go into that yet. At that time, sir, was there any ammunition available?

A There was no ammunition available there. So I told Dr. Bosch, "What kind of ammunition you have? What kind of shell do you have for this?"

And he told Balan to go out and pick up a shell for the 57. So he returned with the shell, and he asked me what kind of shell it was. So I told him, "Listen. This is a TNT shell. The only thing you are going to have is fragmentation, because that is a different type of shell." So I scratched off the green paint and it turned out some blue paint behind the green paint, the olive green military-type paint. So that means that that is a practice shell that has been used to practice with the 57-millimeter.

Q Was this shell in any sort of packaging?

A Yes. It goes in a canister, a special canister for that 57-millimeter shell.

THE COURT: Tell us the difference between a fragmentation shell and an armor piercing shell, for example.

Navarette - direct

THE WITNESS: Sir, in a fragmentation you have a small amount of TNT in the warhead of the projectile.

THE COURT: That is right. Go ahead and tell the jury.

THE WITNESS: So when that projectile is smashed or if it is fired against a rock or tank or whatever it is, you only get the explosion of the detonating system.

THE COURT: In other words, it is exploded into small--

THE WITNESS: Yes. You get a little bit of shrapnel. Armor piercing is a different type of shell that can go right into a certain amount of armor steel, et cetera.

BY MR. BIERMAN:

Q I show you what has been marked as Government's Exhibit 8D and 8E and ask you if you recognize these.

A Can I touch it?

Q Surely. You can withdraw it from the package.

Navarette - direct

THE COURT: You can take them out of the packaging if you desire, if it will assist you any.

THE WITNESS: They are the cases, the canister where the shell goes into.

BY MR. BIERMAN:

Q I show you Government's Exhibit 8C and ask you what relationship, if any, this would have to a projectile.

A This is an empty cartridge of a 57-millimeter shell.

Q And if a 57-millimeter rifle were fired with a projectile--if this 57-millimeter rifle were fired with a projectile in it, where would this end up?

A Inside the chamber, sir, because the 57-millimeter does not eject automatically the empty cartridge. You have to open up again the breech, put your hand in with a glove; otherwise you are going to be burned, and take it out.

MR. BIERMAN: For the record, we were referring to Government's Exhibit 8C.

Navarette - direct

BY MR. BIERMAN:

Q During the course of this three-hour assembling and disassembling, did you have any conversation with Dr. Bosch in regard to any other ships?

A Sir, he was again complaining about the people in Puerto Rico and the phony stuff, and he said that he sent Tony Prieto down to Puerto Rico and he was in charge of the operation of the blowing up of the COROMOTO, the Spanish ship that went off there.

Q Was Tony Prieto present during the course of this conversation?

A Yes, sir.

Q Did he say anything in that regard?

A No. He remained silent all the time, sir.

MR. BIERMAN: Will you mark this for identification, please?

(Thereupon the projectile referred to was marked as Government's Exhibit No. 23 for identification.)

BY MR. BIERMAN:

Q I show you, Mr. Morales, what has been

Navarette - direct

marked as Government's Exhibit No. 23 for identification and ask you, sir, if that was the type of projectile--

A This is a practice shell for 57-millimeter recoilless rifle. There is no powder in it. And the primer has been taken out.

Q At this point we are all safe in the courtroom, is that right?

A Right.

Q And it is your testimony this was the type which was used?

A Only that it was painted green, and when I scratched the green paint, comes out the blue. This is a common practice for the black marketeer to sell it and in that way you will be a fool enough to buy it as a good one. But it is only a practice one.

MR. BIERMAN: We would offer Government's Exhibit No. 23 as an example, your Honor.

MR. GREENSPAHN: The same objections as were rendered to the other examples.

THE COURT: I do not know whether the jury needs that or not to help them understand the

Navarette - direct

testimony. I am going to ask them: Ladies and gentlemen, do you need this last exhibit to help you understand the testimony?

(The jury indicates in
the negative:)

THE COURT: I am going to sustain the objection to it.

BY MR. BIERMAN:

Q After you had completed your assembly, did anything remain that was not used in the assembling?

A Two bolts and screws and the little spring that goes into the cocking rod.

MR. BIERMAN: Will you mark this as Exhibit No. 24?

(Thereupon the package containing the screws and spring were marked as Government's Exhibit No. 24 for identification.)

BY MR. BIERMAN:

Q Do you recognize those screws and the spring?

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A Yes.

Q I show you what has been marked as Government's Exhibit No. 24 for identification and ask you to examine that, sir.

A Sir, those are the ones.

Q Is it your testimony these are the same?

A Yes, sir.

MR. BIERMAN: We would offer them, your Honor, as Government's Exhibit No. 24 in evidence.

THE COURT: All right. Subject to the defendants' objection which is overruled, they are admitted into evidence and will be received as Government's Exhibit No. 24.

(Thereupon the items referred to were received in evidence as Government's Exhibit No. 24.)

MR. GREENSPAHN: May it please the Court, the only thing I wish to bring to the Court's attention is the fact that the exhibit is supposed to contain a spring and two bolts?

THE COURT: It is supposed to contain

Navarette - direct
a spring and two bolts.

MR. GREENSPAHN: Yes, that's right.
But there is something else in here.

THE COURT: Let me look at it.

What is this stuff in here?

MR. BIERMAN: I think that is only
identifying paper. Let me check, your Honor. We
will remove them, however.

THE COURT: All right, sir. I think
perhaps you had better.

Only the articles which have been
testified about are admitted.

MR. BIERMAN: We will withdraw this as
an exhibit in evidence at this time and we will have
it marked only for identification. We need this for
further identification.

THE COURT: All right, sir.

BY MR. BIERMAN:

Q Did there come a time, sir, when you
left the apartment?

A Yes, sir. I left the apartment with
Dr. Bosch, and he told Balan and Prieto to go out and

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get some other car, and he told Aimee to clean up the whole mess that was there in the apartment that was all spread out and so on. So we went out and instead of getting into the '61 blue Chevy, we went into a '64 two-door Dodge Dart that was parked outside the apartment, also.

Q Did you take your tools with you when you left?

A No, sir. He told me that he will return the tools to me in a couple of days or so. So I left the tools at the apartment.

Q Where did you proceed from there, sir?

A We started driving, and Orlando then said that the rifle was going to be used that same night and that he wants me to stay there, and so on, so he said, "Let's go and get an air-conditioned car." So we went to a building up on 11th Street and 1st or 2nd Avenue, and there was a blue four-door Pontiac parked outside. I stayed inside the '62 Dodge Dart, and he returned with a man that he introduced to me as Paulino Gutierrez, the father of Jorge Gutierrez.

Q Do you see that man in the courtroom

Navarette - direct

today?

A Yes. That one next to Miss Miranda.

MR. BIERMAN: Let the record reflect that the witness has identified the defendant Paulino Gutierrez.

BY MR. BIERMAN:

Q What occurred after that, sir?

A After that, he said, he told Paul-- that's the way he refers to him on different occasions-- he told Paul that everything was set for that night, that he had already in the afternoon had picked up the place where to fire with the rifle, and he said, "Let's go out and get something for dinner."

Q Around what time was this?

A Oh, that was around midnight.

Q Did you, in fact, go some place to eat?

A Yes. We went to the Rancho Luna Restaurant on 8th Street in the southwest section, and we sat there. And he asked for a full meal. Dr. Bosch asked for a full meal. And Paulino and myself, we got a glass of beer and we started discussing different matters concerning the Cuban situation, and

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Paul made a remark that Jorge, his son, had been working hard for the next news release, and Orlando stated that already in the next morning, in Replica, that is one of the Cuban papers, will show up a document saying that Ernesto was going to appoint very shortly his delegate, and there was going to be headlines in that paper saying that Dr. Bosch is the head of Cuban Power.

Q During the course of this eating did you remain at the table for the entire time?

A I went to the restroom trying to make a telephone call at the pay telephone and let the FBI know what was going on. But the fact is that the restrooms are outside the restaurant. There is no telephone available, and I thought there was going to be some sort of a surveillance, when in fact none of the persons involved so far at that time had been under surveillance by the FBI. So all the time I was hoping that one of the agents' cars was going to show up there. But they made the remark that the FBI never works on Sunday. They take the day off on weekends, and so on.

Navarette - direct

Q You say you went to the restroom. You were alone at that time?

A No, sir. Paul went with me.

Q Did there come a time when you left the restaurant?

A Yes. After he finished his meal, we went out of the restaurant and he drove to 1628 Southwest 3rd Street, where he said that Tony Prieto lives. And when we arrived at the place, he pointed to a green '62 Oldsmobile that I recognized immediately as being the same one that picked up the dynamite on July 2nd. So his car was also there, the '61 blue Chevy, and he said, "Well, they are not here." So we went to Aimee's apartment. As a matter of fact, it's close by there, about a block and a half. So he went into the apartment and I remained in the car with Paul and when he came out, he said, "They are on the move." So he told Paul to drive to the MacArthur Causeway.

Q Did you, in fact, drive to the MacArthur Causeway?

A Yes, we went to the MacArthur Causeway.

Navarette - direct

And as soon as we got into the MacArthur Causeway, he showed me, he said, "There it is. There is the ship." There was this big ship all lighted up with searchlights pointing to the water, and also I noticed Coast Guard patrol boats right in front of the ship. So we drove up to Star Island traffic light and we made the U-turn there, and as soon as we made the U-turn there was a Miami Beach patrol car ticketing another car there, with the lights flashing there.

So about six blocks going west on the MacArthur Causeway toward Miami, I noticed a light green '57 Chevrolet, two-door, parked on the opposite side of the road. So Dr. Bosch said, "There they are. That car belongs to a mechanic that is a friend of Bobby's." And we slowed down. Paul was the one that was driving. We slowed down and Dr. Bosch told them, "You know, everything is okay."

So I saw Balan there playing the fisherman with a line in his hand, and Prieto was leaning on top of the hood of the car.

Q That is the same Tony Prieto and Barbaro Balan that you identified before?

Navarette - direct

A Yes, sir.

Q Where did you go from there?

A We went to the front of the Miami Herald Building and we didn't park just in front of the entrance; a little off the side of the entrance facing 14th Street, I think it is, the MacArthur Causeway, so we will be able to watch all cars going into and coming out of the causeway.

Then he asked me, "Morales, how is it going to sound?"

I told him that according to my previous experience, it's going to sound this way: "Boom, zip, boom."

He said, "Well, that's going to be fine."

Q Did you wait in the car then?

A Yes, sir, we waited in the car.

Q Were the three of you alone then throughout the rest of the evening?

A No, sir. After let's say about thirty minutes or forty minutes that we had been there, the white '64 Dodge Dart that I had been riding previously

Navarette - direct

in and where we picked up Paulino, it showed up there driven by Jorge Gutierrez, so Paulino blew up the horn and he backed up to the place where we were parked and Jorge said, "Where they are?"

And then the doctor told him where they are in. So he got up and walked into the causeway, and Paulino started complaining about his kid being there and that he got no use to be there. It was foolish from his standpoint to be around the place.

Q When you refer to Jorge Gutierrez, is that the gentleman you identified in the green coat?

A Yes, sir.

Q Then what occurred, sir?

A After a while, let's say about fifteen minutes, we saw Jorge coming out of the causeway, and almost right behind him a car that at the time looked like the one that was supposed to be parked there with Prieto and Balan. So Paulino said, "There they go," and I thought at the moment that that was the same car following Jorge. So the doctor said, "Well, maybe something is wrong or maybe you guys are wrong."

Navarette - direct

It's not the same car, because the fact is there were two individuals inside the car."

So I told Paulino, "It might be you are right or not. Let's go out and see what's going on."

So we tried to catch the car that was supposed to be the same one with Prieto and Balan, but we found Jorge, and Jorge said, "I didn't see anything."

So we started driving. We went to Bobby Balan's house; they were not there. We went to Aimee Miranda's apartment there and they were not there. And we went to Prieto's house again and they were not there. We went to Paulino's house again and they were not there. And finally the doctor said, "You two guys are wrong. Let's go back there. They've got to be there."

So we went through the same procedure. We got into the MacArthur Causeway, all the way up to Star Island, made a U-turn, and they were there, right almost in front of the--a little off of the middle of the ship.

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Navarette - direct

Q Would you recognize the ship if you saw a picture of it?

A It could be, sir.

Q I show you Government's Exhibit 7B and ask you to examine it.

A I have seen a lot of pictures in the papers, yes. The next day in the papers, yes. Yes, this is the ship. I have seen a lot of pictures of that ship in the papers the next day. So I just want to be fair about the recognition of the ship. And it was during the night. There was a lot of searchlights, big lights there, and Coast Guard patrol boats there, and so on.

Q So you saw a Coast Guard patrol boat and searchlights?

A That's right.

Q And then after having seen Barbaro Balan and Tony Prieto at their car, where did you and Dr. Bosch and Paulino Gutierrez go?

A We went to the vicinity of the Miami Herald and we parked in the street that is located between the Miami Herald parking lot and the Social

Navarette - direct

Security parking lot, facing the causeway, so we will be able to see all the cars going in and out of the causeway. So at that time I switched positions in the car with the doctor. He was riding in the front. So he went to the rear seat and fall asleep there.

So I saw another car from the police, from the Miami Police Department, getting into the causeway after a while and the patrol car came out again, and about ten minutes after or fifteen minutes after--it was quarter to three, I heard a boom, an explosion. The doctor waked up himself and was screaming and laughing and so on, "That's it." And then he told Paul, "Let's go." And so he was praying that some of the Poles there got killed, and he was going to call the news and the radio stations about giving them a communica about the shelling from Ernesto and so on, and "All I need now is to show up as a delegate" and so on. And they dropped me in my home.

Q When then, sir, did you next have occasion to see Dr. Bosch?

A September 26, sir.

Navarette - direct

Q Where was that?

A At his own apartment, sir. His own house.

Q Returning for a moment to Aimee's house and to the causeway, were any instructions given to anyone about firing recoilless rifles and where to fire it?

A Oh, yes, sir. He instructed them to dump the rifle right on the spot in the water after it had been fired.

Q And did he tell them where to fire it? When you say "He," to whom are you referring?

A I am referring to the doctor.

Q Who did he tell?

A He told Prieto and Balan.

Q Did he give any instructions as to where to fire it?

MR. GREENSPAHN: If it please the Court, I haven't said very much during the course of this interrogation, but a good deal of it is leading.

THE COURT: It is certainly a leading question. I will sustain your objection to the

Navarette - direct

question.

BY MR. BIERMAN:

Q Was there any conversation at all, Mr. Morales, in regard to the method for firing the gun?

A Well, the only way they could fire that rifle is from the shoulder, because of the fact that there is no mount. A regular weapon, like a regular weapon, a 57, has got a mount so you can fire it from the ground. But without a mount you can also fire it from the shoulder.

Q And what part of the ship was to be hit?

MR. GREENSPAHN: If it please the Court, he is trying to put words in the witness's mouth and I object vociferously to it, your Honor. It has no relevancy or materiality. There is no predicate laid for it, and the answer has been provided to the witness. He has given him the answers in the last five minutes.

THE COURT: I will sustain the objection.

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Navarette - direct

BY MR. BIERMAN:

Q When was the next occasion that you had to see Dr. Bosch?

A September 26.

Q Where was that?

A In his home.

Q What, if anything, did you discuss?

A We discussed the POLANICA shelling, we discussed the reaction of the press. He discussed things concerning the raising of funds campaign. He discussed the possibility of him being sent to jail. And he discussed the way the United States had been forced to apologize before Poland, and he discussed the way that Poland had protested gracefully, but Japan and Spain remained silent because they are under the boot of the Yankee Imperialists.

Q That was what Dr. Bosch said to you, sir?

A I beg your pardon?

Q Is that what Dr. Bosch said to you?

A Yes, sir. Those are the words.

Q When did you next have occasion to see Dr. Bosch?

Navarette - direct

A I saw him the next day.

Q Where was that?

A No, not the next day. I'm sorry, sir.

September 30.

Q Where was your meeting on September 30?

A At the Jose Marti Building.

Q Where is that building located?

A That building is located on 8th Street
in the southwest section at about--

THE COURT: 8th Street and--

THE WITNESS: 3rd Avenue.

THE COURT: About 3rd Avenue, southwest.

BY MR. BIERMAN:

Q Who else was present?

A When I arrived there, Jorge Gonzalez
was present. Tony Prieto joined up in the meeting
after, and then Dr. Bosch showed up there with
Marcelino, plus a lot of office furniture, because
they were moving to Room 309 to establish there the
Cuban Power headquarters and to begin with the meeting
and so on.

Q What discussions, if any, did you have

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Navarette - direct

at that time?

A I discussed with Gonzalez the POLANICA incident and Prieto also discussed the POLANICA incident, and with Dr. Bosch, I showed him the Miami Herald editorial of that day concerning Cuban gangsters disgracing Miami.

Q Did any discussion arise about the position set forth by the Miami Herald?

A I beg your pardon, sir.

MR. GREENSPAHN: Your Honor, I don't blame the witness for begging counsel's pardon. He has put questions to this witness throughout the course of his examination that are leading and infer the thought he wants the witness to testify to. The testimony should be that of the witness, not that of Government counsel.

THE COURT: That's enough. I think that the question tends to be leading but, under the circumstances, I will permit the question as it is now put, but I do not want any more of that. You can answer that yes or no.

Was there any discussion connected with

Navarette - direct

or concerned with your being by the Miami Herald? I assume he means at the time you were parked there on the two occasions you have testified about.

THE WITNESS: That wasn't the previous conversation I had with Dr. Bosch on September 26. However, he had been telling the people and you fellows about the walkie-talkies and another group with walkie-talkies at the Herald, and we were the ones and the Coast Guard returned the fire with machineguns. You know, a "well done" story and that's the way he has to do it. And that we have won other wars with propaganda and we have to use propaganda and so on.

BY MR. BIERMAN:

Q Did you, sir, on the evening of the 16th have walkie-talkies?

A There were no walkie-talkies there, sir. And there was no returning fire from the Coast Guard, sir.

Q Now we are returning to the 30th at the Jose Marti Building. What else was discussed at that time?

A We discussed, as I told you before,

Navarette - direct

Gonzalez and with Prieto, all the events there concerning the Coast Guard patrol boats and why it took so long for him to fire the 57, the cars coming and going in and out of the causeway and another patrol boat circling around and so on and the wild chase when we saw that there was another car, you know, going out of the causeway, and we thought--Paulino and myself thought they were the ones, about us going to look for them all over town.

Q After this meeting which concluded, did you have any occasion to see Aimee Miranda?

A The same night, sir, September 30th.

Q Where was that?

A At her apartment, sir.

Q Did you have any conversation with her?

A Yes, sir. I went there for the purpose of getting back my tools, and she said, "You can have your tools except the screwdriver. Prieto still has got the screwdriver."

So she gave me the tools, and when she opened the drawer in the kitchen, I managed to see the two bolts and the spring that belongs to the trigger housing of the 57-millimeter.

Navarette - direct

Q Are you referring to the same two bolts and springs that are Government's Exhibit No. 24 for identification?

A That's right, sir.

Q I show you what is marked as Government's Exhibit No. 25.

A Can I open it up?

Q Yes, sir.

A It is my pliers and my wrench.

Q How were these packaged, if they were, when you recovered them, sir?

A In plastic bags, sir, and then another, some sort of a, you know--

Q Are these the plastic bags that they were in?

A Yes, sir.

Q What did you do, sir, with these after you recovered them?

A After I recovered them? I turned them in to Special Agent Benjamin P. Grogan of the FBI.

MR. BIERMAN: We would offer Government's Exhibit No. 25 for identification into evidence.

Navarette - direct

THE COURT: All right, sir.

MR. GREENSPAHN: Objection as to relevancy and materiality, your Honor.

THE COURT: All right, sir. The objection is presently overruled and will be admitted subject to being connected up.

(Thereupon the tools referred to were received in evidence as Government's Exhibit No. 25.)

THE COURT: Ladies and gentlemen, it is almost twelve o'clock. This seems to be a good point to take a break in the testimony.

The Court is going to recess until one-thirty. During the recess, of course, the same instructions I have given you heretofore will be applicable. Is there anyone on the jury that does not remember or understand those instructions?

(The jury indicates in the negative.)

THE COURT: Having an indication to me that you do, and that you do understand them, they will be applicable. Court will be in recess until

one-thirty.

(Thereupon at 11:57 a.m., the
hearing was recessed to reconvene
at 1:30 o'clock p.m.)

AFTERNOON SESSION

(Thereupon the following proceedings were had out of the presence of the jury:)

THE COURT: Gentlemen, I understand that the Government has a proffer it desires to make in the absence of the jury?

MR. BIERMAN: Your Honor, we would.

During the course of the testimony of Mr. Morales, we anticipate asking him questions, but right now and for the remainder of his testimony it will concern whether or not he was equipped with electronic recording equipment, and I thought that we would just offer this outside the presence of the jury to give an opportunity to defense counsel--

MR. GREENSPAHN: The Government has provided us the opportunity to hear the tapes, your Honor, and further has provided us with a transcript of these tapes in both Spanish and English.

MR. BIERMAN: We are not offering the tapes at this time; just the fact that Mr. Morales was equipped with this equipment.

MR. GREENSPAHN: Your Honor, well, this

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information will become relevant later on at the time the Government offers the tapes, and I am sure they are going to. And rather than take the Court's time and interrupt the proceedings, at this time I think there are two points that should be raised. One is, of course, that the tapes, upon listening to them, appear to be about 99 percent inaudible and, secondly, before any portion of anything that resulted from those tapes should be considered by the Court or this jury, I think that it becomes incumbent upon the Court to go through the entire transcript and delete those portions which are either spurious, immaterial or irrelevant--and there are quite a few of them--to see if there is anything in these tapes that are of no pertinence here. And there are some things that have no relevancy here that may be very prejudicial in terms of human emotion toward these defendants. And there is some personal matters that were discussed amongst these various people. And it is with this in mind and with great concern about the damage that can be done--and not properly done--to my clients--I come before the Court at this time and raise this issue so that the Court will be apprised of it.

THE COURT: All right, sir. I will, of course, have to go over the matter before they are actually offered into evidence.

At the present time, based upon the Government's announcement to me of what they intend to ask this witness, I am frankly of the opinion that if permitted to ask this witness that series of questions, and if the Government is unable to later carry it out, it will be more beneficial to the defendants. And I will permit the Government at this time to ask this witness the testimony and the matters that he talked about--that is, whether or not he was furnished with tape recording equipment and whether he had it on at a certain time, and they are not to go into the conversations themselves or anything but merely the fact that he had been provided the equipment, that he had it on and that it was operating at these times.

As I say, if he answers those things in the affirmative and the Government can't thereafter come through with something, I think it would be more beneficial to the defendant.

MR. BIERMAN: I agree and I have no objection to that portion of it.

Navarette - direct

THE COURT: I will permit the Government to go into that matter to that extent.

All right, gentlemen. We will proceed.

Will you bring the jury in, please?

(Thereupon the jury resumed their seats in the jury box, pursuant to which the following proceedings were had:)

THEREUPON--

RICARDO MORALES NAVARETTE,
the witness on the stand at the time of the recess,
resumed the stand and testified further as follows:

DIRECT EXAMINATION (resumed)

BY MR. BIERMAN:

Q Mr. Morales, you are still under the same oath that was administered before the recess. And at that time, sir, we were discussing a meeting which you had with Aimee Miranda.

When and where was this, sir?

A At her apartment, sir.

Q What date?

A September 30.

Navarette - direct

Q Who was present?

A Only she was present there.

Q And yourself, sir?

A That's right, sir.

Q What, if anything, did you discuss?

A We went into details concerning the POLANICA shooting, we went into her own account of the personalities of the people involved in the activities surrounding Bosch. We went into the discussion--

Q Without telling me what her account of them was, who were those people?

A Balan, Prieto, Bosch himself, Marcelino, Jorge and Paulino.

Q What else did you discuss?

A We discussed the fact that none of the ships which have been bombed nor the companies who owned those ships have been trading with Castro and none of the ships should have been bombed. They had never touched Cuban ports.

Q Prior to your going to the apartment of Miss Miranda, did you meet with anyone from the

Navarette - direct

FBI?

A With Special Agent Benjamin P. Grogan.

Q What was the purpose of that meeting?

A At his apartment to place an Edwards tape recorder on my person.

Q Did he do that?

A Yes, sir.

Q Did you have an on-and-off control yourself, or was it on at all times?

A At the apartment it was on all the time.

Q Who controlled that?

A I controlled it.

Q After having left Aimee's apartment, where did you go?

A I went to the parking lot of Miami High on Flagler Street at 24th Avenue, and I give the tools to Agent Grogan, and I told him that I got enough tape left over to go to the Marti Building; that there was a meeting going on that night.

Q Did you, in fact, go to that meeting?

A Yes, sir.

Navarette - direct

Q Who was present there?

A At Room 309 there was Dr. Bosch, Tony Prieto, Paulino Gutierrez, and Bombillo Gonzalez was there, also; Marcelino Garcia, and about four or five more individuals that I didn't know at that time.

Q What discussions occurred at that meeting?

A The discussions were concerning the raising of funds campaign for the Cuban Power.

Q Were all of the individuals that you just named, did they all participate in these discussions?

A All of them were talking at the same time. It was a general discussion concerning raising funds.

Q Did you record that?

A No, sir. I didn't record it for the fact that there were so many people talking at the same time that it was going to be impossible to get a proper recording.

Q You stated that raising money was discussed. What about that was discussed?

Navarette - direct

A The means and the ways to contact different peoples and different factories about the raising of funds campaign, plus Marcelino stated there was some sort of a bonus that will be in the name of Cuban Power with different amounts showing that they were going to give in exchange for money for the campaign.

Q What do you mean by a bonus?

A Like a sticker.

Q Like a United Fund sticker that we give, is that what you are referring to?

A Some sort of that thing.

Q Returning for a moment to the meeting which you had with Dr. Bosch on September 26, prior to that meeting did you have occasion to meet with the FBI?

A Oh, yes, sir. That afternoon at the office they showed me how to work with the Edwards tape recorder, and about seven o'clock I was at Special Agent Benjamin P. Grogan's apartment and he placed the Edwards tape recorder on my person.

Q Did you turn this on during the time

Navarette - direct

that you were talking with Dr. Bosch?

A Oh, yes, sir, I turned it on.

Q Did you leave it on, or did it go on and off or what?

A No. I left it on in spite of the fact that at the beginning there was a TV set going on, and afterwards we went out of the house so when the conversation was finished, I turned it off.

Q Did you have another occasion to see Dr. Bosch after September 10?

A On October 1, sir.

Q Where was that, sir?

A The Jose Marti Building, sir, Room 309.

Q Who else was present, if anyone?

A The same people that were present on October 30, plus some other different individuals, concerning the raising of funds campaign and discussing the same matter.

Q Were you in contact with the FBI prior to this meeting?

A Yes, sir.

Q With whom?

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A Special Agent Benjamin P. Grogan, where he placed the Edwards tape recorder on my person again.

Q Did you conduct any conversation with anyone in particular there?

A After ten minutes being there, I went to a small room in the back of that office with Bombillo and Gonzalez, and we started in a long conversation, a lengthy one.

Q What did you say?

A We discussed the POLANICA, we discussed the reactions that might happen if Bosch was arrested, and they didn't believe that Bosch was going to be arrested. And in the event Bosch was going to be arrested, they were going to paralyze Miami in a big strike, and now that the New Year season was almost about, it was going to be some sort of a shock for everyone, and he went into the details about the surveillance and so on.

Q After that meeting where did you go?

A I went to the parking lot of the Miami High on Flagler Street where I turned in the Edward tape recorder to Agent Grogan.

Q Did you record anything else on that recorder after you left this meeting?

A After I left the meeting?

Q Yes.

A No, sir.

Q What did you do after the meeting on the 30th at the Jose Marti Building? Where did you go then?

A To the same parking lot at Miami High, to turn in the Edwards tape recorder to Agent Grogan.

Q Between the time that you had left Aimee Miranda's house and seeing Agent Grogan for the second time, did you ever have the recorder on again?

A No, sir.

Q During the course of your undercover work for the FBI, did you have any other employment?

A Yes, sir. I was employed at National Brands Wine Department, as a salesman.

Q How much money were you making?

A \$500 straight salary plus my commission.

Q Did you continue that job?

A No, sir. I give it up to dedicate full time to my undercover work.

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MR. BIERMAN: Your Honor, could we have a very brief recess? I realize we just started back.

THE COURT: How brief is "brief"?

MR. BIERMAN: Five minutes.

THE COURT: All right. We will have a recess for five minutes.

During the recess the same instructions, of course, will be applicable.

Court will be in recess for five minutes, at which time we will then start with the cross examination.

MR. GREENSPAHN: May I respectfully request that the witness be instructed that he not talk to anybody during this period of recess?

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: Is it the Government's purpose in requesting this recess to have a conference with this witness?

Navarette - direct

MR. BIERMAN: No, sir. Not with this witness. We want to talk with the Court and with defense counsel to explain the 302s and the Jencks Act material which we have turned over, which has been excised. And I have made a complete transcript available to the Court so that it can be a matter of record.

THE COURT: Mr. Morales, you may be excused for five minutes. And pursuant to the request of counsel, I am going to instruct you not to talk to any of the lawyers or anybody else about your testimony.

THE WITNESS: Yes, sir.

THE COURT: You may be excused until we start again.

(Thereupon the witness was
excused, pursuant to which
the following proceedings
were had:)

THE COURT: Is there anything else you want to announce?

MR. BIERMAN: We also would request that at the close of this testimony all copies of

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this material, pursuant to the Jencks Act, be returned to us.

THE COURT: All right, sir. That is perfectly all right. That is your privilege and I will so direct.

MR. GREENSPAHN: One point, your Honor. The Government has previously advised the Court that it would not make known Mr. Morales' address because of the alleged threats that might be received by him. This being the case I, of course, have no means of serving him with the process of this Court if I would choose to use him for the defendants.

THE COURT: I will direct Mr. Morales that he shall remain subject to the orders of the Court, to be recalled back at any time counsel so desires, and he can be recalled as his witness.

MR. GREENSPAHN: Thank you, sir.

THE COURT: Is there anything else?

MR. BIERMAN: Nothing further.

THE COURT: We will be at ease for a few minutes.

Navarette - cross

(Thereupon a short recess was taken, pursuant to which the following proceedings were had in the presence of the jury:)

THE COURT: You may proceed, Mr.

Greenspahn.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Morales, when did you terminate your employment at the National Brands Company?

A About September 15, about that time.

Q What year, sir?

A This year, sir.

Q Of the various activities that you have testified to on direct examination, they have primarily concerned themselves with the period from April, 1968, up until approximately the first part of October of this year, is that right?

A That's right, sir.

THE COURT: Up through October 30th, I think you testified, was the last meeting, did you not?

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Navarette - cross

THE WITNESS: September 30.

BY MR. GREENSPAHN:

Q You quit your job on September 15, which was very close to the end of these various things that you have told us about?

A Right.

Q You did that to dedicate yourself on a full-time basis to your undercover work?

A Sir, in fact I resigned about fifteen days before that time, but my commissions--that is, receiving money from my commissions--that was pending from the months of July. So, in fact, National Brands is still sending me checks after that time. But I officially resigned from up there.

Q When was it that you last really worked there, not when you last received money from them?

A August 15, sir.

Q In the period from April until August 15, you were employed at National Brands?

A I started working for National Brands on May 1.

Q So you worked there from May 1 until

Navarette - cross

August 15. Where did you work before May 1?

A I was employed as a salesman in a jewelry store, United States Jewelry Stores, 1650 Southwest 8th Street, sir.

Q What kind of work did you do there?

A I resale jewelry merchandise.

Q How long were you employed in that capacity?

A In that capacity, for a long period of time, sir. Back to 1963.

Q Was that your principal form of employment since 1963 until May 1, 1968?

A No, it's a sideline, sir, and part-time job.

Q Were you employed anywhere during the month of January, 1968?

A U. S. Jewelry Store, sir.

Q Did you have any contact with or any dealing with Orlando Bosch or any of the other defendants during the month of January, February or March, 1968?

A No, sir.

Navarette - cross

Q During the months of November, December, 1967?

A Occasional meeting, might be. You know, just run into him or stop on the street corner and say hello and that's it. With Dr. Bosch.

Q When did you come to the United States?

A November 29, 1960.

Q How did you come?

A By airplane, sir.

Q Are you a political refugee?

A Yes, sir. I was at the Brazilian Embassy as a hostage there.

Q Who held you hostage?

A The Brazilian Ambassador, sir.

Q For what reason?

A Political reasons, sir.

Q What kind of work did you do in Cuba before coming here?

A I was a G2 agent, sir.

Q What is a G2 agent?

A Intelligence Service, sir.

Q How long were you employed in that

Navarette - cross

occupation?

A Part of 1959 until the end of July, 1960.

Q In which government was that that you were a G2 agent?

A Fidel Castro's government.

Q What was your rank or position?

A Special Agent, sir.

Q Did you hold any rank above that of the ordinary special agent?

A No, sir.

Q Did you have any particular assigned duties to which you were assigned in that capacity?

A Yes, sir. At the Havana International Airport.

Q What were your duties?

A Checking the list of people coming in and out of the country.

MR. BIERMAN: Your Honor, I am going to object to this line of questioning going back to 1960. I don't see the relevancy of it.

MR. GREENSPAHN: It goes to the

Navarette - cross

credibility of the witness. These issues were all presented upon direct examination by questioning of counsel as to the background of this witness.

THE COURT: I will overrule the objection at the present time.

MR. GREENSPAHN: Thank you, sir.

BY MR. GREENSPAHN:

Q Mr. Morales, had you at any time prior to April, 1968, been an employee of any federal agency in the United States?

A Yes, sir.

Q Would you tell me the date and the occasions for your employment?

MR. BIERMAN: Your Honor, I am going to object to this at this time pursuant to the trial memorandum that we filed in regard to the matter.

THE COURT: I am going to overrule the objection at this time.

MR. GREENSPAHN: Thank you, sir.

BY MR. GREENSPAHN:

Q Answer the question, Mr. Witness.

A Will you repeat it again, sir?

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Navarette - cross

THE COURT: What specific United States agency were you employed by, sir?

THE WITNESS: The Central Intelligence Agency, sir.

BY MR. GREENSPAHN:

Q When was that, sir?

A In '64, sir.

Q For how long a period of time?

A For a year and one month.

Q What was the reason for terminating that employment?

A My last assignment was over.

Q Have you worked for the Central Intelligence Agency since that time?

A No, sir.

Q Directing your attention to the months of February-March-April, 1968, when was the first time that you made any contact with any special agent of the FBI or any other government agency relative to these nine defendants?

A April 25.

Q At what place did you make such

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contact?

A By telephone, sir. I arranged a meeting with them.

Q You arranged a meeting?

A Oh, he arranged the meeting. I told him, "I want to talk to you," and he said "Okay" and he arranged the meeting.

Q What was the date of that, if you recall?

A The same day that I spoke with him.

Q What date, sir?

A April 25, 1968, sir.

Q Who did you call?

A Joseph C. Ball, Special Agent of the Federal Bureau of Investigation, sir.

Q Was that your first contact with Agent Ball?

A No, sir.

Q Had you had previous contact with him?

A Yes, sir.

Q On what occasion and for what purpose?

A In the County Jail, sir.

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Q When, sir?

A February, sir.

Q Were you a guest or were you in or were you in custodial custody at that time?

A I can't be a guest of the County Jail. I was a prisoner in the County Jail.

Q What were you a prisoner for, Mr. Morales?

A It was under a police charge of a bombing.

Q What bombing, Mr. Morales?

MR. BIERMAN: Your Honor--

THE COURT: Gentlemen, just a minute. Will counsel approach the Bench?

(Thereupon a sidebar conference was held at the Bench out of the hearing of the jury as follows:)

THE COURT: Gentlemen, if the purpose of this cross examination is to go into the credibility of the witness, the mere fact of an arrest is not at all admissible, and it is improper to inquire about it. Convictions are perfectly proper if it is counsel's

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intention to show an arrest and conviction. And I will permit him to do it. If it is counsel's intention to ask--and I assume possibly it may be--whether or not this witness was offered any promises or immunity, I will permit you to go into that, but I don't want a whole series of things about if you were arrested for this or if you were arrested for that.

MR. GREENSPAHN: That's the point, your Honor.

THE COURT: Other than those two matters, I will permit counsel to go into it.

MR. BIERMAN: And no further details?

MR. GREENSPAHN: I think the severity or the nature of the crime becomes very material to it, your Honor.

THE COURT: Well, it's a felony. I do not think it would make much difference at this point. Under both the Florida law and the federal law it would be a felony.

MR. GREENSPAHN: A felony?

THE COURT: Yes, sir.

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(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had in open Court:)

BY MR. GREENSPAHN:

Q Mr. Morales, have you been tried for the offense with which you were charged?

A It is still pending, sir.

Q When was the arrest made?

A St. Valentine's Day, sir.

Q Has there been a date set for the trial of that case, sir?

A Yes, sir. February 7, sir.

Q Has there previously been a date set for the trial of that case, sir?

A Yes, sir.

Q What was the date?

A June 3 and October 21.

Q Mr. Morales, what was your motivation and what was your reason for calling Special Agent Ball?

A When?

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Q On April 25, 1968.

A To report my conversation with Dr. Bosch.

Q Were you a Cuban national before you came to the United States?

A I am still a Cuban national, sir.

Q What was your purpose in reporting Dr. Bosch to Mr. Ball of the FBI?

A My believe that what was going on was the biggest phony scheme that can be put over on the Cuban exiles here, and my belief that he did not represent the true feeling of the Cuban people, and my belief that the actions that were going on only helps Communist Cuba.

Q When you had this belief in April, 1968, Mr. Morales, was it a belief formed upon the opinion that any bombing activities as such were wrong and were not helpful to the anti-Castro cause?

A Definitely, sir.

Q Why, sir, did you participate in a bombing in January, 1968?

MR. BIERMAN: Your Honor, I am going

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to object.

BY MR. GREENSPAHN:

Q In the City of Miami--

MR. BIERMAN: I object to this and move it be stricken and ask that counsel be instructed not to infer guilt--

THE COURT: I am going to sustain the objection and grant the motion and will instruct the jury to disregard it because it is entirely argumentative.

BY MR. GREENSPAHN:

Q Did you, Mr. Morales, attempt to secure consideration of any special kind or quarter from the Federal Government or from the State Government by reason of any activities that you might perform after April 25, 1968?

A No, sir, no bargain, sir.

Q Have you received any consideration from any federal or state agency?

A What kind of consideration, sir?
I don't understand your question.

Q Have you received anything of value,

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whether it be a promise or money or other object?

A No promises, sir.

Q Have you received any object, Mr. Morales?

A What do you mean "object"?

THE COURT: Have you received any money?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q How much money have you received?

A Enough to keep up with all my expenses during my undercover work, sir, and they can furnish you with my signed receipts accorded to that matter, sir.

Q Mr. Morales, you responded directly to the Government's questions. I would appreciate your responding to my question.

How much money have you received, Mr. Morales?

MR. BIERMAN: Your Honor, I object to this question.

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THE COURT: I will strike counsel's observation from the record and instruct the jury to disregard it. And I will ask the witness myself: Do you know approximately how much money you have received from the Government in payment for your undercover activities?

THE WITNESS: No, sir.

THE COURT: You do not know, sir?

THE WITNESS: No, sir.

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q What was the manner and method of payment to you, Mr. Morales, by the Government?

A In cash, plus a receipt that I signed, sir.

Q By whom were such payments made to you?

A Special Agent Joseph C. Ball and Special Agent George Davis.

Q How often were these payments made subsequent to April 25, 1968?

A That's right, sir. After that month, sir.

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THE COURT: How often were they made, sir? He has asked you now, did you get them weekly or daily or monthly or how were the payments made to you by time period?

THE WITNESS: Monthly.

BY MR. GREENSPAHN:

Q Once a month?

A Even twice a month. It all depended on the expense that I was getting at that time, sir.

Q Are those payments continuing as of this date?

A No, sir.

Q When was the last time that you received such payment?

A In September, sir.

Q What date in September?

A I don't recall the date, sir. I'm sorry. The receipt was dated and my signature and so on.

THE COURT: That's all right. Just do not volunteer any answers.

BY MR. GREENSPAHN:

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Q Do you remember the specific amount of any payment that you received?

A What do you mean? What specific amount?

THE COURT: Any one payment. Do you recall how much you got at any one time, sir?

THE WITNESS: About \$400.

THE COURT: About \$400?

THE WITNESS: Yes, sir.

MR. BIERMAN: Your Honor, we will be glad to make these receipts available to refresh the witness's memory.

THE COURT: All right, sir. And bring them up here.

These are the receipts which have been signed by you. You can look at them if you will and see if you recognize your signature on them, and if you do recognize your signature, you may refer to them for the purpose of refreshing your recollection as to any specific date or any specific amount counsel may ask you about.

THE WITNESS: That's right, sir.

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BY MR. GREENSPAHN:

Q Now, reviewing the receipts that have been handed to you, will you tell us the dates and the amounts of payments that were made to you during the period from April 25 to and including the present date.

A April 26? Do you want the amounts?

THE COURT: I do not want you to read them. Are those your signatures on them, all of them?

THE WITNESS: Those are my signatures, sir.

THE COURT: All right, sir. The Clerk will please mark them Court's Exhibit No. 1. It will be received in evidence over the objections of both parties.

MR. BIERMAN: We have no objection.

THE COURT: They are in evidence. I do not want him to waste his time reading them. You can make anything you want to out of them.

MR. GREENSPAHN: I have no objection to the introduction of these.

THE COURT: They will be received in evidence. The Government may withdraw them and

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substitute photostatic copies if it so desires. They are in evidence as Court's Exhibit No. 1.

(Thereupon the receipts referred to were received in evidence as Court's Exhibit No. 1.)

THE COURT: Proceed with your cross examination, sir.

Do you have any summary of that, a recapitulation or anything?

BY MR. GREENSPAHN:

Q In reviewing Court's Exhibit No. 1, can you recall any other considerations that you may have received--that is, money, promises or other objects?

A Oh, they keep up with all the payments to move myself, as a security precaution.

Q Are you moving in and about the Dade County area?

A No. I am still living in the Dade County area. I am still living in the City of Miami.

Q All right, sir. Have you had any other occupation during your adult lifetime other than

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the work that you have described to us?

A During my adult life? Where?

THE COURT: Well, I would assume in Cuba you are speaking about now. You have told us about the time that you were in--

BY MR. GREENSPAHN:

Q Cuba or anywhere else.

THE COURT: Did you live anywhere else than Cuba before you came over here?

THE WITNESS: No, sir. In Havana, Cuba.

THE COURT: I am talking about Cuba. Havana is in Cuba.

THE WITNESS: Yes, sir.

THE COURT: Did you live anywhere other than Cuba before you came to the United States?

THE WITNESS: No, sir.

THE COURT: All right, sir. Now he is asking you, aside from the work you did as a G2 agent, have you done any other work in Cuba of any nature or have you done any work in the United States of any nature since you came here that you have not told us

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about?

THE WITNESS: Yes, sir. I have done factory work up in New York, in Port Chester. I have worked in New York City and I have worked factory work down here in Miami, American Art Industries. I was a parking attendant at the Luau Restaurant on the 79th Street Causeway. I was also a parking attendant at the Americana Hotel on the Beach. And I was also working with Van Dusen Aircraft Suppliers. And I also worked with Royal-McBee Corporation.

BY MR. GREENSPAHN:

Q Does that completely cover all your employment?

A Just about, as I recall now.

Q Since leaving Cuba have you been to any other foreign country than the United States?

MR. BIERMAN: I am going to object to that. We have been through the covering of this employment, and if he left the country in regard to that, it is neither relevant, nor is it proper at this time, and we would have a more complete objection out of the presence of the jury.

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MR. GREENSPAHN: Your Honor, there is a real and present reason for my asking this question. It is not fancy on my part to do so.

THE COURT: Well, the question, as I understand it now, is, since leaving Cuba have you been to any other country than the United States. I will permit the question. Objection overruled.

THE WITNESS: I went to Africa, sir, to the Republic of the Congo.

BY MR. GREENSPAHN:

Q In what capacity?

A As a highly-trained operator under-
going rescue missions concerning the activities of
the Communists in that republic.

Q Who were you employed by?

A I was employed by the Congolese
Government, sir.

Q For how long a period of time were
you there and when were you there?

A From September, 1964, to December, 1964,
sir.

Q Mr. Morales, what experience have you

Mercenary

Navarette - cross

had with demolition equipment?

A I was fully trained on demolition equipment, sir.

Q Where and under what circumstances?

MR. BIERMAN: Your Honor, I will agree that he may answer that on the method of his training, but to go any further is to go into areas of the Central Intelligence Agency which is neither relevant nor material nor admissible at this time.

MR. GREENSPAHN: Your Honor, he has qualified himself, really, on direct examination as an expert on weaponry and on demolition materials. This is in cross examination of that.

THE COURT: Well, I don't know whether he has qualified himself as an expert in weaponry. I would imagine, although the foundation has not been laid, and he has testified from his knowledge that he has assumed the position of being an expert insofar as demolition is concerned--at least as far as the 57-millimeter recoilless rifle is concerned--I will permit you to go into his qualifications as to those matters.

Navarette - cross

MR. GREENSPAHN: Thank you, sir.

BY MR. GREENSPAHN:

Q Mr. Morales, will you tell us the nature and extent and the place of your training?

A Sir, with your permission--

THE WITNESS: And, your Honor, I am not going to disclose about anything as to locations that might affect the security of this country. I won't supply any kind of information that might be available or that is of good use to the Communist Parties, sir.

THE COURT: I am not going to require you to.

MR. GREENSPAHN: I haven't asked you that. All I am asking you is to tell the extent of your training and what training, what knowledge you have received with respect to demolition, dynamite and 57-millimeter recoilless rifles.

A In a number of places, sir.

THE COURT: All right, sir. How many months training or weeks training or what did the training consist of? That is what I want to know.

Navarette - cross

THE WITNESS: On demolition, two weeks.
A full course in demolition for two weeks, day and night classes, concerning all the arsenal of explosives --pentolite, TNT, dynamite, C4, C3, all kinds of charges, shaped charges, booby traps, hand grenades, rocket launchers.

BY MR. GREENSPAHN:

Q How long was that?

A Two weeks, sir.

Q How long ago was that?

A I don't understand your question, sir.

THE COURT: How long ago did you receive that training?

THE WITNESS: In 1964, sir.

BY MR. GREENSPAHN:

Q Did you have experience at that time with 57-millimeter recoilless rifles?

A No, sir.

Q Have you at any time had experience with 57-millimeter recoilless rifles?

A I was fully trained with the 57-millimeter recoilless rifles, sir.

Navarette - cross

Q At what time, sir?

A In '64.

Q As a part of the training you have told us about?

A Yes, sir. I spent nine months in training, sir.

Q Did you have occasion to personally operate and fire a 57-millimeter recoilless rifle?

A During training, yes, sir.

Q On more than a few occasions?

A Yes, sir.

Q Do you feel that you are well enough conversant with the operation of the recoilless rifle to understand all of the things that are to be understood about the operation of such a rifle?

A They teach you that, sir.

Q Will you describe the shell that allegedly was presented to you or shown to you at the apartment of Aimee Miranda.

A That's right, sir.

Q You said that it was a practice shell?

THE COURT: He said it was a fragmentation

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shell. It had green paint on it. He scraped the green paint off and he saw the blue paint underneath.

Is that what you said?

THE WITNESS: That's right, sir.

BY MR. GREENSPAHN:

Q Did you not also say it was a practice shell?

A Yes, sir.

Q Now, will you tell or will you describe to us the distinction between a practice shell and an armor-piercing warhead shell that should be used in situations other than practice?

A The different types of shells--

✓ THE COURT: He described the difference between an armor-piercing shell and a fragmentation shell. I don't want him to go into that. Briefly, as I understand his testimony, a fragmentation shell has a charge within the head of it which causes it to explode and fragment when it comes in contact with an object. An armor-piercing shell, on the other hand, has case hardened steel which will penetrate steel before exploding. Is that correct, sir?

Navarette - cross

THE WITNESS: That's correct, sir.

THE COURT: Now, let's go on. What is the difference between a practice shell and one that would be in the field, if any?

THE WITNESS: Sir, you wouldn't use a practice shell in the field because you won't achieve any military purposes.

BY MR. GREENSPAHN:

Q Is it the destruction of property that is the military purpose in the context that you use it?

A Yes, sir.

Q Is that right?

A A military target, sir.

Q Based upon your training and experience in weaponry, what effect would the shell that you described as having seen in Aimee Miranda's apartment have when utilized against a metallic surface?

A Just fragmentation and maybe a little scratch and some sort of, you know, a big bump, you know. You can make a little hole. It won't have enough power to penetrate steel.

Navarette - cross

Q Would you, based upon your experience and training, expect such a shell fired from a distance--and in this instance the distance that you have described the 57-millimeter to have been from the ship, the POLANICA, would you have expected it to do serious damage to the mechanical capabilities of the vessel POLANICA?

A Not the mechanical ability of the vessel, but fragmentation can kill anyone close by in the circular radius of fragmentation.

THE COURT: What you are talking about is if it is a hull. If it hits the wheelhouse, for example, it would be an entirely different situation there. It might be through a glass window and explode?

MR. GREENSPAHN: I am not talking about the mechanical apparatus.

THE COURT: You are limiting your question to the hull now?

MR. GREENSPAHN: Yes, sir.

THE COURT: And what his opinion would be as to the effect of it? All right, sir. We got that cleared up.

BY MR. GREENSPAHN:

Q Now, Mr. Morales, the first time that you established contact with Orlando Bosch, was it your intent to bring forth from him statements that could be referred by you to the FBI that would be incriminatory of Orlando?

A I did not force him to anything, sir.

Q What was your purpose in contacting him?

A I got no purpose in contacting him. We just ran one into each other, as I explained before.

Q Did you form a purpose of maintaining a relationship after you ran into him and prior to or before the time that you and Agent Ball first talked?

A We formed that purpose, sir, because he wanted to obtain explosives and equipment from me, personally.

Q Did you ever provide explosives or other detonating devices to any person other than Orlando Bosch or any of these eight defendants?

A Yes, sir. During activities against Castro I have been involved in activities against

Navarette - cross

Castro for a certain amount of time. In fact, I have been going down there on raiding missions.

Q To your certain knowledge is it not a fact that within the Cuban colony in the Miami area there are many raids purportedly made and many, in fact, are made upon Castro's Cuba?

MR. BIERMAN: I will object to that as not being relevant.

THE COURT: I will sustain the objection.

BY MR. GREENSPAHN:

Q Mr. Morales, after you established your contact with Agent Ball, did you have occasion to become conversant with any other special agents upon a regular daily basis other than Agent Ball?

A No, sir. In the beginning it was only just Joseph C. Ball.

Q After this was there ever a time when you became principally responsible to any other agent of the Federal Bureau of Investigation?

A Well, when he was on vacation I was turned over to George Davis. And when Joe Ball

Navarette - cross

returned from his vacation, I remained in contact with Joe Ball and subsequently I was in touch with both of them.

Q Now, after you began your contact with Orlando Bosch, did you ever advise him, without being requested and without being asked for such advice, that you could provide him with either the breathing apparatus that you described or explosive material?

A Will you repeat the question.

Q It is a rather lengthy question.

THE COURT: The question is this:
After meeting Dr. Bosch did you advise him that you could obtain this breathing equipment without any suggestion on his part or request on his part?

THE WITNESS: He requested it, sir.

BY MR. GREENSPAHN:

Q When that request was allegedly made of you, what did you say to him?

A That I was going to look about for rebreather equipment, sir, the same as we did with explosives, sir.

Q Let's talk about the rebreather. Did

Navarette - cross

you ever provide him with the rebreather apparatus?

A Yes, sir.

Q Was it a functioning rebreather apparatus?

A The oxygen tank was empty.

Q Were there any defects in that apparatus?

A No defects, sir.

Q Was it fully operable other than the fact that it was in need of oxygen?

A In need of oxygen and in need of granules in the canister. And I supplied the granules.

Q After the granules were supplied, was it operable?

A They have to fill up the oxygen tank, sir.

Q Did you ever see that rebreathing equipment used by Orlando Bosch or any of the other defendants?

A No, sir.

Q With regard to the explosives, was there ever a time that you gave to Orlando Bosch or

Navarette - cross

any of the defendants live explosives?

A In 1963, sir, and 1964.

Q That is when you were in the CIA?

A Before the CIA and in between the CIA, sir.

Q Was there ever a time after April, 1968, that any such explosives were given by you?

A Live explosives, sir?

Q Yes, sir.

A No, sir.

Q Was there a source of your explosives other than Mr. Davis or Mr. Ball of the FBI?

A The phony explosive, sir?

THE COURT: The one you have testified about today in this trial.

THE WITNESS: No, sir. The phony explosives were supplied by FBI agents, sir.

BY MR. GREENSPAHN:

Q How about the live explosives that you used?

MR. BIERMAN: Your Honor, I am going to object to that question as being irrelevant. There

Navarette - cross

has been no direct testimony that--

THE COURT: I am going to sustain the objection.

BY MR. GREENSPAHN:

Q Mr. Morales, with the exception of the purported time when you and Dr. Bosch went to the canal behind the Doral Country Club, was there any other time that you personally observed the use of explosives from April, 1968, to the present date by any of these defendants?

A No, sir.

Q Have you had occasion to see any of the dynamite, pentolite or any other explosive devices that you have talked about subsequent to the time that you made delivery of them in the manner and form that you have told us you made the delivery?

MR. BIERMAN: I am going to object to that.

THE COURT: I will sustain the objection. So far as I understand the witness's testimony, the only thing he delivered was dynamite. Is that correct, sir?

Navarette - cross

THE WITNESS: That's correct.

THE COURT: You did not deliver any other type of explosive?

THE WITNESS: No, sir.

THE COURT: The blasting caps, where did they come from? Did you deliver them?

THE WITNESS: No, sir.

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q What about the pentolite? Didn't you deliver that to Aimee Miranda's apartment?

A I never delivered any pentolite to Aimee Miranda's apartment. The pentolite was already there, in a soap box.

Q Where did you get your pentolite from?

A What pentolite, sir?

Q The pentolite that you had previously used yourself.

MR. BIERMAN: I am going to object.

THE COURT: I will sustain the objection.

MR. GREENSPAHN: I will withdraw the

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question.

BY MR. GREENSPAHN:

Q Were you aware of the fact that Orlando Bosch was the principal in an organization known as the MIRR?

A That has been the previous name of his organization, sir.

Q That is the name of an organization of Cuban exiles, is it not?

A That's right, sir.

Q Are you aware of the fact that the office in the Jose Marti Building that you referred to is the MIRR office and has not any other name?

A There was no MIRR name there, sir, in Room 309, and the conversation carried on in that 309 office during the time that I was present concerning the raising of funds campaign was to be directed to the Cuban Power and not to the MIRR.

Q Have you known of any other person in the Cuban colony, either in this city or in any other city, who have referred to themselves as Cuban Power other than these charged defendants?

Navarette - cross

A There have been a lot of announcements in the papers concerning that, sir.

Q From various places?

A That's right, sir.

Q So that as I understand it, you worked in the Congo and were directed to the saving of human lives?

A That's right, and to fight the Communists that were taking over the country.

Q Did you fight?

A Yes, sir, I fought.

Q Did you use weapons in the process?

A Yes, sir.

Q Now, sir, when you talked to Dr. Bosch the first time or the second time--the first several times during the months of April and early May, 1968, were your principal conversations only about the supply of explosive devices or were there other things that you talked about?

A Supplying the equipment, sir, and his future plans concerning Cuban Power activities and so on.

Navarette - cross

Q Did you not ask him for his assistance in attempting to locate and talk to a witness in the case pending against you?

A Yes, sir. We discussed it.

Q Wasn't that discussed on several occasions?

A Yes, sir.

Q Have you discussed that witness with Mr. Ball or Mr. Davis or other FBI agents?

A No, sir. Only my lawyer Mike Suarez, because he wants to take a deposition of that witness and we were not being able to locate that witness.

Q Which reminds me: You have seen me before, have you not?

A Oh, yes, sir, here in the office.

Q At that time when the Government produced you for me to talk to you, you agreed to speak with me?

A I agreed to see you, sir.

Q Did you speak with me?

A I talked to you, sir, and I told you I was not going to tell you anything and discuss anything relating to the case; and no hard feelings, sir.

Navarette - cross

And I didn't want you to waste your time and I didn't want to waste my time, sir. Everything I had to say was going to be said in this Court, sir.

Q Before coming into this courtroom today, had you discussed this case with any person other than Mr. Bierman or Mr. Ball or Mr. Davis?

A No, sir.

Q Have you talked to Agent Grogan?

A Agent Grogan? I have seen Agent Grogan a lot of times.

Q As to this dummy dynamite that you supplied, how did you know it was dummy dynamite?

A Because I was informed that the FBI-- that it was dummy dynamite that they have requested from the duPont Company at Birmingham and, in fact, I tested a stick of that dynamite with Dr. Bosch, and the fact that myself I inspected the dynamite and from my own judgment concerning my own training in demolition I determined that it was phony. I can tell you the difference.

Q At the time you picked it up or tested it with Dr. Bosch, did you tell Dr. Bosch your opinion

Navarette - cross

that it was phony dynamite?

A Yes, I told him.

Q He knew it from that point on?

A Yes.

Q He knew it from that point on?

A That's right.

Q Isn't it a fact on these various exhibits that you have identified there are markings which indicate that these are, in fact, dummy sticks of dynamite?

A Sir, outside of Bosch, there is a "D" means dummy.

Q On the sticks of dynamite isn't there a "D"?

A I didn't see it now, sir.

THE COURT: Let him look at it. He can't see it that far away.

A There is a "D," sir.

BY MR. GREENSPAHN:

Q And you said this looks just like the dynamite that you turned over to Dr. Bosch?

THE COURT: Yes, sir. That's what he said. He said it was similar to it.

Navarette - cross

BY MR. GREENSPAHN:

Q Does this look, in packaging and content, like dynamite as you have experienced it?

A Yes, sir.

Q With regard to the baralyme granules, did you give this package, Government's Exhibit No. 20, did you give this to the people you gave it to full or was it half full?

A It looks like that one. That one looks like the one I gave him.

THE COURT: The question he is asking you, sir, was the package which looks like this one he has in his hand full or was it half full?

THE WITNESS: It was full, sir.

BY MR. GREENSPAHN:

Q All the way up to the top?

A Yes, sir. It was sealed.

Q It appears to be in the same or appeared to be in the same condition this one appears to be?

A That's right.

Q Did you have any business with a man

Navarette - cross

named Theofilo Babon?

A I know him.

Q Did you have any reason to do business with him, any reason whatsoever?

A Business with him? No, sir.

Q Had you ever had experience with detonating devices?

A Yes, sir. All different kinds, sir. There are a lot of different kinds of detonating devices, sir.

Q Did you, on January 25 of this year, have in your possession detonating devices at your home?

MR. BIERMAN: I object to this as irrelevant, your Honor.

THE COURT: I am going to sustain the objection.

BY MR. GREENSPAHN:

Q Did you live at 921 Southwest 5th Street, Mr. Morales?

A I used to live there, sir.

Q Were you living there on January 25,

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Navaratte - cross

1968?

A January?

Q Yes.

THE COURT: January 25, 1968, did you live at 921 Southwest 5th Street?

A Yes, sir, I was living at that address.

BY MR. GREENSPAHN:

Q Did you make independent notes as the days passed and the meetings occurred about the various people you have testified about?

A What do you mean by independent notes, sir? If I keep a diary or if I keep personal notes concerning the meetings?

THE COURT: Yes, sir. That's what he means.

A No, sir. For security reasons I never keep any notes concerning meetings and so on on my activities.

BY MR. GREENSPAHN:

Q Have you had occasion to see any notes or any official reports concerning your activities in this regard?

Navarette - cross

A Well, I saw all my reports with Mr. Bierman.

Q Have you studied them?

A We went through them ten or fifteen hours, sir, during the period of about four days.

Q Did you have any difficulty in recalling any of the events that were described in those reports?

A Not too much, sir. Not too much.

Q Do you recall if Agent Ball or Agent Davis ever put any markings of their own on any dynamite or on the box in which the dynamite was packaged?

A On the last delivery Special Agent George Davis took two sticks out of the box, and that is all I know about him touching the boxes and the dynamite. Special Agent George Davis, he took two sticks from the box.

Q What was the date of that last delivery?

A The day of that last delivery?

Q Yes.

A Sir, it was September 27, sir.

Navarette - cross

Q Was that the only time that any of these agents--

A So far as I am concerned, sir.

Q Did you ever deliver any on August 27?

A It was August 27, sir?

Q Was it? I'm asking you, sir.

A It was August 27, sir.

Q Is that what you are talking about when you said September 27, or is that a separate delivery?

A August 27, sir.

Q The date that Agent Davis took it from you?

A Not from me, sir. From the box.

Q How about September 27? Was there another delivery on that date?

A Sir?

THE COURT: Did you make another delivery of dynamite on September 27?

THE WITNESS: No, sir, September 26 is when I went to Dr. Bosch's house with the tape recorder, sir. No deliveries on September 27, sir.

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Navarette - cross

BY MR. GREENSPAHN:

Q What was the date, if you can recall it, that you observed the unusual event of a circling airplane that you described to us?

A August 27, sir.

Q Was this a special type airplane?

A It was a Cessna 150.

Q How high off the ground was it?

A About 500 feet, sir.

Q Do you know who was occupying that airplane?

A The FBI, sir.

Q Do you know who was in that airplane?

A No, sir.

Q Have you had any conversations with anybody about that airplane since that time?

A Yes, sir.

Q Who?

A FBI agents, sir.

Q Who?

A Joe C. Ball.

Q Is that the only one?

Navarette - cross

A And George Davis, sir.

Q Is that the only other one?

A That's all, sir.

Q You testified that you and Aimee Miranda
--at Aimee Miranda's house you had seen, I think you
said, boxes of M1 rifles?

A Not M1 rifles, sir; M1 rifle grenades,
sir.

Q M1 rifle grenades?

A Yes.

Q Where did those come from?

A I don't know, sir.

Q Did you, during the period of from
April 25, 1968, up to and including the present date,
ever provide any M1 rifle grenades?

A No, sir.

Q At what time did you get to Aimee
Miranda's house on September 15?

A About eight-thirty, sir.

Q And at that time did you engage in any
lengthy conversations with any person there, or was
it just hello and--

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A During what time, sir? Do you mean all the time that I remained in the apartment?

Q No. When you first came in the apartment.

A When I first came to the apartment, we have a little talk. At that time we were driving up there, sir.

Q Then you commenced working on the 57-millimeter, is that right?

A Yes.

Q How long did you work on it?

A About three hours, sir.

Q Did you do most of the mechanical work on the 57-millimeter?

A No, sir. All of them helped me on that.

Q Was the gun operable when you first went to work on it?

A No, sir.

Q Was it operable when you finished it?

A Yes, sir.

Q What happened to the two screws or the

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two bolts which you had removed and the spring?

Where had they come from on this apparatus?

A Do you want me to show you where they came from?

Q Would you, please?

A Sure. These two screws there fit right into here, sir.

Q I don't want you to dismantle the evidence.

A Excuse me, sir. If you want me to show you where they go, I hate to take out the screws, because the spring goes right into here. That is the cocking rod of the weapon. That is where the spring goes.

Q Now, is this weapon in the same essential condition it was when you last saw it?

A It's a little rusty now, sir.

Q Other than the rust, does it appear to be about the same as it was when you last saw it?

A The only thing is you don't have the sight here, sir, that I fixed up for the L-shape coat hanger, plus the adhesive tape here, sir, plus

Navarette - cross

the string that was across here, sir, because you got the markings here.

Q In a mechanical sense is it any different now than it was before?

A Mechanical sense? Well, do you mean operating the weapon?

THE COURT: Yes, sir. Is it operable now, or is there any difference from when you last saw it? You testified it was operable for a single shot.

THE WITNESS: That's right, sir.

THE COURT: At the time you left it.

THE WITNESS: I can fix it up for a single shot now.

THE COURT: Is it essentially in the same condition?

THE WITNESS: Essentially the same condition now. I don't know if you can work with it now or not. If I test it, you know, I can tell you.

THE COURT: Well, let's don't put a shell in it.

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BY MR. GREENSPAHN:

Q What I would like to know, the spring mechanism that was out of it controls what portion of the apparatus?

A The cocking rod that goes right into here. And when you open the breech, sir, it cocks the weapon so you can fire after that. So you can use a screwdriver and push that cocking rod all the way to the back so the rifle will be set up in a cocking position.

Q Is the rifle in a cocking position now or has it been placed in a different position?

A There is a knob missing here, sir, that I notice now that I have to use to unlock it, to open this breech. Without that, I can't do it.

Q Was that knob on this the last time you saw it?

A Oh, yes, it was.

Q So then this 57-millimeter is not in the same condition it was the last time you saw it?

A No, sir, except for the missing knob there.

Navarette - cross

Q That missing knob has some significance in the operation of the 57-millimeter?

A That's the only way you have to open that breech, sir. Now you can't open the breech.

Q In other words, you can't put a shell in there?

A Right now? No, sir.

Q Was that knob that you are talking about makeshift or improvised or was it actually a piece of that machinery?

A I can't hear you, sir.

Q Was the knob you are speaking about, which is missing, was it a makeshift knob or was it a part of the regular equipment?

A It was part of the regular equipment, sir.

Q How big is it?

A This big, sir (indicating).

Q Was it affixed to the apparatus the last time you saw it?

A Oh, yes, sir.

Q How is it affixed to it?

Navarette - cross

A It was screwed in, sir.

Q Was it welded to it or was it screwed into it?

A It was screwed in, sir.

Q Have you had occasion since the 15th of September to the present date to see this 57-millimeter rifle?

A In the paper, sir.

Q Have you seen the rifle itself?

A No, sir. This is the first time.

Q This is the first time you have seen it?

A Yes, sir.

Q Do you know what nationality the man you described as Tony Prieto is?

A (No response)

Q Are you having difficulty hearing me?

THE COURT: Sometimes I do, too. You can talk a little bit louder.

MR. GREENSPAHN: Certainly, sir. I'll do the best I can.

A Sir, I have a hearing condition in this

Navarette - cross

ear. So that's the reason, sir.

BY MR. GREENSPAHN:

Q Let's ask about that. What kind of condition do you have in your ear?

A I am a little deaf here thanks to an explosion, sir, in the Congo.

Q That is the left ear?

A Yes.

Q Do you have any trouble with your right ear?

A Not with the right ear.

Q Mr. Morales, the question I asked you was, is the man you identified as Tony Prieto, to your knowledge, a Cuban?

A Yes, sir.

Q Are there restrictions on the travel of Cubans in and out of the United States?

MR. BIERMAN: Your Honor, I am going to object.

THE COURT: I will sustain the objection.

Navarette - cross

BY MR. GREENSPAHN:

Q Do you know, sir, of your own knowledge whether Tony Prieto has ever been out of the United States since the time that he entered the United States?

A Only--

Q Of your own knowledge?

A No, sir.

Q On the night that the POLANICA was shelled, did you drive past the area where Balan and Prieto were?

A I didn't drive, sir. I was in the back seat of the car.

Q You were in the car?

A That's right.

Q Did you have a clear view out of the window of that back seat?

A Yes, sir.

Q Which side of the car were you--right or left?

A Right side.

Q In which direction were you going when

Navarette - cross

you first passed that area?

A When we first passed, where they were parked? We were going west, toward Miami, sir.

Q Did you look out to your right as you passed the area that they were in?

A Yes, sir, because I was--

Q What did you see?

A Sir, I saw a light green '57 Chevrolet parked off the side of the road. A man had a fishing line in his hand. And--Balan had the fishing line in his hand, and Prieto was leaning on the top of the hood of the car, and I was taking a good view, trying to get a good view of the car, just to get the license number, sir. That was not easy to get.

Q Did you see anything when you went by?

A No, sir.

Q Did you go by it again?

A A second time, sir.

Q What were they doing the second time you went by?

A The same thing.

Q Were there other people fishing on and

Navarette - cross

off?

A No, sir. They were the only ones at the causeway that night, sir.

Q Did you go from Miami to Miami Beach on the causeway?

A No, sir. We went up to Star Island. There is a traffic light there so you can make a U-turn and go back to Miami again, sir.

Q On the occasions that you passed back and forth did you ever see them do anything other than fish or sit and lean on the hood of the automobile?

A Fishing and leaning on top of the hood, sir.

Q What objects, if any, did you see other than their fishing rods, if they had them?

A No fishing rods, sir.

Q String?

A A line.

Q A line? That is the Cuban fashion of fishing, isn't it?

A That's right. That is Cuban fashion.

Q What other objects did you see?

Navarette - cross

A Nothing else, sir.

Q You did not see the cannon?

A No, sir.

Q Did you ever recover your screwdriver?

A No, sir.

Q Do you know where it is?

A I don't know, sir.

Q Now, I think you referred to it as an Edwards recorder. Can you hear me all right? I want to make sure I am not--

A Yes.

Q The Edwards recorder. What was the mechanism for turning it off and on and how did you go about turning it on and off?

A You have a little wire that goes into your pocket. So you make a little hole in the pocket and it goes right into the pocket so I could put my hand into the pocket. There was the off and on switch there. The on position is close to the wire and the off position is away from the wire. It's a little device this big, sir.

Q How many times all together did you

Navarette - cross

ever use the recording machine?

A I used it on September 26th and I used it twice on the 30th and I used it once on October 1.

Q The first time that you used it was on September 26th?

A Previously I was instructed how to work it.

Q The first time that you used it did you turn it on and leave it on throughout the entirety of any conversation that you had with any of these defendants?

A The first tape, yes, was Dr. Bosch.

Q And that was not stopped at any time?

A No, sir.

Q From that point that you turned it on until the point that it went off, there was the complete conversation you had?

A Definitely, sir.

Q How about the second time you used it?

A The second time that I used it, I turned it off and on about three or four occasions.

Q What was your purpose in turning it

Navarette - cross

off when you turned it off?

A Sir, my purpose was because there was so much noise of office equipment and getting into the building that I knew that the reception of the voices was impossible to be recorded.

Q Did you record anything with any other extraneous noises present--television sets, radios?

A On the first occasion there was a TV set going on. And during the time in Aimee Miranda's apartment, there was a radio on, also, and there had been elevator noises and office equipment getting into it.--

THE WITNESS: Well, he's not paying attention to me.

MR. GREENSPAHN: Don't worry whether I am paying attention or not. I am hearing you fine.

THE WITNESS: That's it, sir.

BY MR. GREENSPAHN:

Q You mentioned some nicknames. Do you know some of these defendants by nickname?

A I know them by their own names and by nicknames and supposed names.

Navarette - cross

Q Let's review the nicknames that you spoke about. Tell me whose nickname is which.

A Barbaro Balan is Bobby; Andres Jorge Gonzalez Gonzalez is Bombillo; Tony Prieto turns out to be Jose Diaz Morejon; Dominguez Benitez is El Isleno.

Q Are there any others?

A Jorge is Jorgito.

Q You have a nickname, do you not?

A In my schooldays I should have a nickname. Every--at school time when you are a kid you got a nickname.

Q You are known as Chivato, aren't you?

(Thereupon, pursuant to reaction from the spectators in the courtroom, the following proceedings were had:)

THE COURT: Ladies and gentlemen, I have told you at the beginning of this trial that there will be no noise, no talking, no demonstrations of any kind whatsoever on the part of the audience. At this time I am going to let you get away with it.

Navarette - cross

The next time that some person makes any kind of demonstration I am going to instruct the United States Marshal to place him under arrest immediately. And the rest of you are going to be ejected from the courtroom. I will not stand for any kind of demonstration or any noise of any kind or interference with this trial on the part of any spectator.

All right. Now you may proceed.

MR. BIERMAN: Your Honor, I have a motion to make outside the presence of the jury, if I could, sir.

THE COURT: All right, sir. Ladies and gentlemen of the jury, will you excuse us for a few minutes?

(Thereupon the jury was excused, pursuant to which the following proceedings were had outside of the presence of the jury:)

MR. BIERMAN: Your Honor, I would move that Mr. Greenspahn be forced to show a basis for the asking of this question. Mr. Morales has never been known by that name. And translated in English it

means "stool pigeon." It was a question asked for the purpose of embarrassing this witness.

THE COURT: All right, sir. What basis do you have?

MR. GREENSPAHN: Your Honor, this man has been referred to numerous times as Chivato.

THE COURT: By whom?

MR. GREENSPAHN: By a number of people. I can't give you specific names other than the fact that I have heard it repeatedly. I did not do this as a stage dramatic. If it had that effect, I'm sorry, your Honor.

THE COURT: I am quite sure it did have. I don't know whether it was for the purpose of the audience or what. I don't believe it was. I don't believe it had any effect on the jury because I don't believe anybody on the jury can speak Spanish. So I think it is probably a loss as far as the jury is concerned. But I think the thing was entirely brought out by you voluntarily, and I think it was solely for the purpose of making an impression on these Cuban people sitting out in the audience.

I am going to ask the witness now:

Navarette - cross

To your knowledge were you ever called by that name prior to the time that these people were indicted?

THE WITNESS: No, sir.

THE COURT: All right, sir. Do you have any witnesses who will testify that that was a common nickname used by him prior to the time these people were indicted?

MR. GREENSPAHN: Your Honor, I hadn't given any thought to providing such witnesses.

THE COURT: Well, I am going to strike that last question and answer, and I don't want any more of it.

Do not bring the jury in right at this point. We'll be in recess for a few minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: All right, Mr. Greenspahn. You may continue. But before you do that, however, ladies and gentlemen: I have stricken from the record the last question and answer as having no basis in the record for such a question to be asked. So you

Navarette - cross

will disregard it completely.

BY MR. GREENSPAHN:

Q Mr. Morales, do you have an opinion as to the truth and veracity of Orlando Bosch?

A Sir?

THE COURT: Just a minute.

MR. BIERMAN: I object, your Honor.

THE COURT: I will sustain the objection unless it is first established that this witness is familiar with his general reputation for that characteristic in the neighborhood and if he is asked in the proper manner whether he has an opinion.

MR. GREENSPAHN: All right. If I may backtrack.

MR. BIERMAN: Your Honor, I will withdraw my objection to that.

MR. GREENSPAHN: I will withdraw the question, your Honor.

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q Mr. Morales, during the considerable portion of the time that you have spent with Dr.

Navarette - cross

Orlando Bosch in the last several months, have you become familiar with Dr. Bosch's claims with regard to his anti-Castro activities; that is, those activities that are directed to Fidel Castro in Communist Cuba?

A Not like he was claiming.

Q From the way you said that, I get the impression that you don't believe him.

A That's right, sir. And the fact that none of the ships that were bombed nor the companies that owned those ships have been making any kind of trade with Cuba. They have not touched Cuban ports and they are claiming that the sabotage had been done in Cuba, and he has got no connection with that sabotage here, and he was hiding the fact that there was a true clandestine move down in Cuba.

Q In other words, you are telling me that you don't believe Dr. Bosch when he tells you about his activities in Communist Cuba?

A He has never done any kind of activities in 1968 against Communist Cuba, sir, concerning the ships and the companies that own those ships. And

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concerning this recent sabotage that has been done in Cuba, he has got no connection with those, sir.

Q So that when he told you again a good many of these things that he told you, you just didn't believe him?

A I knew it wasn't true, sir.

Q Did Dr. Bosch at any time tell you that he was opposed to the bombings that were taking place in the Miami area?

A Yes, sir.

Q He did tell you that?

A Yes, sir.

Q I may be repeating myself--bear with me if I am--but the very first time on April 25 that you made contact with Orlando Bosch, how did that contact come about?

A As I told you before and as I told the Court before, I was driving on 1st Street in the southwest section going east, and I happened to run into him. He was riding in a black Falcon two-door.

Q Who uttered the first word? Who said "Hello" first, do you recall?

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Navarette - cross

A Both of them the same time.

Q Did you tell him that you had something you wanted to talk to him about?

A No. We just stopped the cars there and we started engaging in conversation, sir.

Q That was the extent of it?

A Sir?

Q That was the extent of that conversation at that time?

A Sir, the extent of the conversation I explained and testified before in this Court, sir. Do you want me to go over that conversation again, sir?

Q It's not necessary. It's repetitious.

MR. GREENSPAHN: Your Honor, subject to the Court's ruling as to the availability of the witness I have no further questions.

THE COURT: All right, sir. Redirect examination?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Morales--

MR. GREENSPAHN: Your Honor, just one

Navarette - cross

further thing. May I open up my cross?

THE COURT: I will permit you to continue your cross.

CROSS EXAMINATION (continued)

BY MR. GREENSPAHN:

Q Mr. Morales, I am going to show you two objects and ask you if you will identify each of them. The first one is a magazine. I want to ask you to turn to Page 50 and see if you can identify that. What is the object itself, before going into the contents of Page 50?

A Well, this is my own account of what happened in the G2 during the time that I was there, sir. And as I told the newspaperman, I told him the details and he made all the write-ups and he--

Q What is the publication--

A And the format of the articles and so on.

Q What is the publication in which that is contained?

A The Bohemian Magazine.

Q Is that a magazine, to your knowledge,

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of general circulation in the South Florida area?

A At that time, yes, sir.

THE COURT: What is the date on that,
sir?

BY MR. GREENSPAHN:

Q Do you see the date on that, sir?

A February 19, 1961, sir.

Q I show you a continuation of that in a
subsequent magazine. This, too, is Bohemia, is that
correct?

A Yes.

Q What is the date of this?

A February 26, 1961, sir.

Q And at page supplement 8, is this the
continuation of that article?

A Well, it is the continuation of all the
details that I gave the newspaperman and he finished
up his work, sir.

Q Is the article in the first and second
Bohemia that you referred to, is it correct and have
you read it and understood it to be a correct
restatement of what you said?

Navarette - cross

A There are some misunderstandings due to the work of the newspaperman. We can't go into too many discussions about things and so on, because newspapermen, once in a while they change little subjects and so on.

Q Your direct quotes in here are relatively accurate, are they not?

A The direct quotes might be. Some of them are made by the newspaperman, because he was trying to make some sort of a--you can't help it. It was just to prepare it, not the plain facts, but just to fully describe it. The newspaperman was a very capable person, anyway.

MR. GREENSPAHN: Will you mark these as a composite exhibit?

THE COURT: Mark them as Defendants' Composite Exhibit No. 1 for identification.

(Thereupon the magazines referred to were marked as Defendants' Composite Exhibit No. 1 for identification.)

MR. GREENSPAHN: I have nothing else.

Navarette - redirect

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Under what conditions did you leave Communist Cuba?

A Very difficult conditions, sir. I went to the Brazilian Embassy because I got a price on the top of my head.

Q Who put that price on the top of your head?

A The Communist government of Cuba at that time, sir.

Q When you said you were a hostage in the Brazilian Embassy, did you go there voluntarily?

A Oh, yes. I needed a place to be away from them, and I asked for politican asylum of the Brazilian Ambassador, and he granted it.

Q In other words, you were under their protection?

A Yes, sir, definitely. I was living in the embassy for eighty-two days, sir.

Q How did you get out of the country?

A Well, finally the ambassador got a

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safe conduct from the government, and he put me on a Pan American flight down here to Miami, sir.

Q And since leaving Cuba on that date have you ever worked for the Government of Fidel Castro?

A No, sir.

Q Have you been opposed to it in any way?

A Oh, yes, sir. All the way, sir.

Q Referring you, sir, to Government's Exhibit No. 19, this box marked "Dynamite" and Government's Exhibit No. 22, which purports to be a stick of dynamite, would the letter "D" mean anything to you if you did not previously know that it was dummy dynamite?

MR. GREENSPAHN: Your Honor, this is a leading question and it is counsel's witness.

THE COURT: Since he is apparently now qualified as an expert on explosives, I will permit him to answer the question.

Would that letter "D" have any particular significance to you if somebody was just

Navarette - redirect

to hand that to you?

THE WITNESS: Dummy, defective.

THE COURT: Could it mean "Dangerous"?

THE WITNESS: That's right, sir.

THE COURT: But to you it meant "Dummy"?

THE WITNESS: Dummy and defective.

BY MR. BIERMAN:

Q Did you ever explain, prior to the date of testing, to Dr. Bosch or any of these people that you previously testified about, that this was not genuine dynamite?

A I told him the night that we tested that at the canal, but not previously.

Q On one occasion did he ask you whether it was dangerous?

A Oh, yes. The night of the first delivery.

Q What did you tell him?

A I know I told him--

THE COURT: He said no, it wasn't dangerous to drop it if it dropped. That was the question that was asked him. He was asked whether or

Navarette - redirect

not it would be dangerous to drop it and he said no.
Is that right?

THE WITNESS: That's right.

THE COURT: That was the conversation.

BY MR. BIERMAN:

Q Now, Mr. Greenspahn asked you whether or not you personally viewed the firing of this 57-millimeter rifle, and your reply was no. Did you have any discussions with anyone after the firing of this weapon?

A Oh, yes.

THE COURT: That is repetitious. He testified that all he heard was a boom, zip, boom. And later on he talked to people about it at length.

MR. GREENSPAHN: This was an area which I did not discuss, your Honor.

THE COURT: If you want to get into the area he didn't discuss, go ahead, but I don't want all this other conversation repeated again.

BY MR. BIERMAN:

Q Did you have any specific conversation with Tony Prieto about the actual firing of this rifle?

Navarette - redirect

A Yes, sir.

Q What was that?

A About being deafened by an explosion.

When he fired the rifle, sir.

Q The sound?

A The sound of the explosion, sir.

Q And you were apparently qualified as an expert on 57-millimeter rifles at one time. What, sir, would have been the effect had this projectile hit the wheelhouse of the POLANICA?

MR. GREENSPAHN: May it please the Court, it calls for a conclusion for which he is not qualified.

THE COURT: I will sustain the objection.

BY MR. BIERMAN:

Q Can a projectile of the type that you have seen penetrate fiberglass?

MR. GREENSPAHN: Same objection. It is a leading question.

THE COURT: This is asking an opinion now. And I will permit him, if he has an opinion.

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Navarette - redirect

I will permit him to express it.

A It all depends, sir, about the thickness of the fiberglass.

BY MR. DIERMAN:

Q Do you know whether the plan, prior to the firing, was to hit the hull of the boat?

A It was to hit the deck, sir.

Q Mr. Greenspahn asked you about the tapes and when you turned them on and off. Do you know whether there was any limit to the amount that you could record on these tapes?

A Oh, yes, sir. Only forty minutes, sir.

Q You mentioned, sir, that you were known by a nickname in school. What was that nickname?

A Monkey, sir.

Q How is that said in Spanish?

A Mono.

Q Did you, sir, ever bargain with the Federal Bureau of Investigation for payment?

A No, sir.

Q Did you ever tell them anything whether

Navarette - redirect

or not it was too much or too little or anything else?

A No, sir.

Q Mr. Greenspahn asked you some questions whether or not you believed as to what Dr. Bosch was doing.

Did you, sir, believe him when he told you which ship he was shelling or which he was causing to be bombed?

MR. GREENSPAHN: If it please the Court, again this is a leading question.

MR. BIERMAN: There was some confusion in that area, your Honor.

MR. GREENSPAHN: There wasn't any confusion in that area.

THE COURT: Well, I will permit the question to be answered.

BY MR. BIERMAN:

Q You may respond.

A Will you repeat it, sir?

THE COURT: Yes, sir. Do you know what the question is?

THE WITNESS: Will you repeat it again?

Navarette - redirect

THE COURT: The question was this: Did you--you testified, in substance, that you knew he wasn't telling the truth about his purported clandestine activities in Cuba and that you knew some of the things that he claimed credit for that he had not done and wasn't deserving of the credit. The question now is, did you believe him when he told you about the sabotage or the attempted bombing of certain ships?

THE WITNESS: Sir, he was claiming that he was bombing ships that were trading with Cuba, sir, with Communist Cuba. And none of those ships that were being bombed--

THE COURT: That was not the question, sir. The question was, as I understand the testimony up to this time, Dr. Bosch is supposed to have claimed credit for the bombing or attempted bombing of certain named ships.

THE WITNESS: That's right, sir.

THE COURT: Now, the question is, with respect to those particular ships, regardless of whether they were trading with Cuba or not, did you

Navarette - redirect

believe him in his statement that he had something to do with those bombings or attempted bombings?

THE WITNESS: Definitely, sir.

MR. BIERMAN: We have no further questions.

MR. GREENSPAHN: May I exercise just a short recross?

THE COURT: All right, sir. We have gone a little wide. So I will permit you to ask additional questions.

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q You have just told Mr. Bierman that you are opposed to Fidel all the way. Those are your words?

A And Communists, sir. And I can prove it. All my life, sir.

Q How have you proven it in the last year or two?

A In the last year or two, sir?

Q Yes.

A I have been disconnected with any

Navarette - recross

clandestine activities because of lack of support, and because where I have been waiting for help to do something for my country against international Communism, it has not come, sir. That is all. I have been in a standby position for almost two years now, sir.

Q Were you on a standby position on January 25 of this year?

MR. BIERMAN: I am going to object. Counsel knows this is an improper question. The ruling was made on this previously.

MR. GREENSPAHN: I don't know of any such thing. If it upsets Mr. Bierman so much--

THE COURT: Just in case, we will settle any doubts--

MR. GREENSPAHN: I will withdraw the question, your Honor.

THE COURT: All right, sir. Good.

BY MR. GREENSPAHN:

Q Mr. Morales, the vessels that Dr. Bosch talked about and the countries that they were flying the flag of, to your knowledge were these flags of

Navarette - recross

these vessels engaged in commerce with Communist Cuba?
I am not talking particularly about these vessels.

MR. BIERMAN: I object to the question.

MR. GREENSPAHN: You raised it,
Counsel. That's the only reason I am bringing it up.

THE COURT: I don't think it makes a
great deal of difference or not, but we have gotten
into some discussion with respect to that. So I will
let him answer it. We are speaking now about Spanish,
English and Polish vessels.

MR. GREENSPAHN: That's right, sir.

THE COURT: Is the question now as to
these particular vessels or these particular countries?

MR. GREENSPAHN: The countries, your
Honor; not the vessels.

THE WITNESS: The United States
Government trades with Communist countries. That
means we don't have to bomb them just because they
trade with Communist countries, sir.

BY MR. GREENSPAHN:

Q Cuba is what I asked about, Mr. Morales.

A Do you know what flag convenience is,
sir?

Navarette - recross

Q No, I don't.

A England, Mexico, Spain and Japan, they trade with Communist Cuba, sir.

Q And finally, I hope, as to one of these forty-minute tapes that you referred to, is that forty minutes consecutive running on one side of the tape or do you have to turn the tape?

A No, no. Consecutive.

Q Forty minutes on one side?

A Yes.

Q Is there a second side to the tape so that you can get an aggregate of eighty minutes?

A No. You put a new reel on.

Q Is it a cassette type or is it a long time?

A Sir?

THE COURT: Is it a type that is within a little case or is it separate on a reel?

THE WITNESS: In a little case.

THE COURT: You insert the case in the recorder?

THE WITNESS: No. You have a little

Navarette - recross:

case and you place the two reels in.

THE COURT: Two separate reels?

THE WITNESS: Two separate reels.

MR. GREENSPAHN: Thank you, sir.

THE COURT: All right. Now, is there anything else of Mr. Morales?

(No response)

THE COURT: Mr. Morales, you may now be excused, but you will have to remain subject to call, sir. So if you will keep in touch with the United States Attorney so that he can get in touch with you if it is desired to recall you back, you can be called back. But you may now be excused subject to being recalled, sir.

Thank you.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

BERNARDO M. PEREZ,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

LEONARD LAIKEN

OFFICIAL COURT REPORTER

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Perez - direct

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Bernardo M. Perez, P-e-r-e-z. I live at 49 Malaga Avenue in Coral Gables. I am a Special Agent for the FBI.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q How long have you been so employed, Agent Perez?

A A little over five years.

Q Where are you assigned at this time, sir?

A Miami, Florida.

Q Were you on duty August 13, 1968?

A Yes, sir, I was.

Q Where were you, sir?

A Working the regular day shift, and I believe I also worked that night.

Q Where were you that night?

A At the 1150 Building on Southwest 1st Street in Miami.

Q What, if anything, did you observe,

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Perez - direct

sir?

A. Can I check my notes, please?

THE COURT: Yes, sir, you may.

A. On the 13th at nine o'clock I saw a white 1957 Chevrolet arrive in the parking lot behind the 1150 Building, and a Latin male about five feet ten, weighing approximately 170 pounds, wearing a polo-type shirt or Banlon shirt and white socks, bushy black hair and dark shoes, drove up and parked his car and left the car. I didn't see where he went immediately after that.

At about 9:06, a 1961 blue Chevrolet with a white strip down the side arrived and parked near this first car, and I saw a Latin male, forty to fifty years of age, appeared to be, dark hair, dark pants, dark shoes got out. He was wearing glasses, also, wearing a light blue shirt. He looked around for a while and locked his car up and then departed, walking toward the corner of Southwest 1st Street and 12th Avenue.

At approximately 9:12 p.m., the first person that I had seen, the man with the bushy hair,

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Perez - direct

and the second man, the man who drove the 1961 Chevrolet into the lot, both came walking back from the direction of Southwest 1st Street and 12th Avenue, and they walked over to their cars, and I could hear them talking. I could not understand them. I could hear that they were talking through the glass.

And at 9:21 a red Corvair drove up and turned off the lights, and he parked near the other two cars. And he stopped for just a moment, then he backed up, and a male, Latin appearing, got out, and he took a carton, a box.

Q Can you describe that box, sir?

A It was about two feet long, about a foot and a half wide, maybe six or seven inches deep.

Q How would you describe it, sir, in relation to this box?

A It looked like that box, that type of box.

MR. BIERMAN: Referring to Government's Exhibit No. 19.

BY MR. BIERMAN:

Q Were you able to identify anyone at that

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Perez - direct

time, sir?

A Not positively on that occasion. The one man that I could identify, however, was Mr. Orlando Bosch. I recognized him.

Q Do you see that individual sitting in the courtroom here today?

A Yes, sir, that is he.

MR. BIERMAN: Let the record reflect that the witness has identified the defendant Orlando Bosch.

6-1 BY MR. BIERMAN:

Q What else occurred on that night, if anything?

A The carton was transferred from the trunk of the Corvair into the trunk of the white Chevrolet. And after that, the three men--I could see the three men talking for a short time--and then the Corvair--I'm sorry, not the Corvair--the white Chevrolet departed, leaving the red Corvair and the blue '61 Chevrolet belonging to--that was driven by Mr. Bosch there, and they finally departed, also.

Q Were you on duty, sir, on August 14,

Perez - direct

1968?

A Yes, sir, I was.

Q Where were you on duty that night?

A I was in the same building, looking out toward the back lot.

Q Is that the 1150 Building on Southwest 1st Street?

A Yes, sir.

Q What occurred, sir?

A At 8:51 p.m., a red Corvair was observed parked in the center of the rear of the parking lot behind the 1150 Building on Southwest 1st Street. A lone, Latin-appearing male, approximately thirty years of age, five foot seven or eight, medium complexion, stocky build, and dark hair, drove the car up and he got out. At exactly nine o'clock, Orlando Bosch Avila was observed driving his 1961 blue Chevrolet, Virginia license on the front, 228-727. Bosch and the driver of the red Corvair were observed standing and talking near the two automobiles. I could see that Mr. Bosch was wearing a white shirt and dark trousers.

Perez - direct

At 9:21 the red Corvair backed up from a position next to Bosch's car and what appeared to be a heavy box, the same as that box over there, with red coloring, was taken from the trunk of the Corvair and placed in the trunk of Bosch's car.

At 9:27 the Corvair drove off, heading east on Southwest 2nd Street, and at 9:30 Dr. Bosch drove off in his car heading west on Southwest 2nd Street.

Q Were you in contact with anyone during that surveillance?

A Yes. I had a radio with me. I was in contact with other FBI agents who were on the street in radio cars.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q May I see the report to which you have alluded, sir?

A I believe you have copies of these, sir.

Perez - cross

MR. GREENSPAHN: That is precisely the point.

Counsel, would you join me at the Bench?

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury:)

MR. GREENSPAHN: I understood from the 302s that there are tape recordings of what happened nearly every night preceding the indictment. And this is a witness who, frankly, I am not prejudiced in any way by not receiving it, but apparently there are others that are going to be called today that I know nothing about, and I would like that material, at least now, to peruse and go through it.

MR. BIERMAN: Your Honor, it is true I expect to go into the tapes for the rest of the day, but because we weren't going to listen to them until the end of the day, we changed the order a little bit. I will be glad to supply those surveillance logs.

THE COURT: All right, sir.

Do you have any other witnesses after

Perez - cross

we finish this one that you propose to call?

MR. BIERMAN: The rest of the surveillance witnesses, until we get to the tapes.

You have the 302s and the tapes and the translations?

MR. GREENSPAHN: Yes, I have those for the last several days, but I am talking about this testimony that is coming in now. I know nothing about it.

THE COURT: Do you have any witnesses that you are going to call after this witness and that you have not given the material to Mr. Greenspahn?

MR. BIERMAN: Yes, sir. I have other surveillance witnesses.

THE COURT: Let's give him the material. Let's finish with this witness and then we will call a recess and you can give him the material and we will start from there.

(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had in open Court:)

Perez - cross

BY MR. GREENSPAHN:

Q These are the entirety of your notes, is that right?

A Yes, sir.

Q Could you identify any of the persons other than Orlando Bosch that you saw at the time of the events that are set forth in your testimony as occurring on August 13?

A Not at that time I could not, sir.

Q With regard to August 14 were there any that you could identify by name or otherwise as of August 14?

A I'm sorry. On the 13th, one of the persons that--there were three people involved in that, if I am correct, at that time, and I believe that now I know who one of the other persons was.

THE COURT: Could you identify him at the time it happened?

THE WITNESS: No, sir.

THE COURT: On the 13th?

THE WITNESS: No, sir.

THE COURT: That was the question.

LEONARD LAIKEN

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Perez - cross

BY MR. GREENSPAHN:

Q And the same question for the 14th?

A The same answer. Just Dr. Bosch.

Q Did you, subsequent to August 14, perform any other official services with regard to this case and these defendants?

A Yes, sir, I did.

Q Was it in the nature of surveillance or something else?

A Surveillance and arrest, sir.

Q You participated in the ultimate arrest?

A Yes, sir.

MR. GREENSPAHN: Thank you. I have no further questions.

THE COURT: Is there any redirect?

MR. BIERMAN: No redirect.

THE COURT: All right, sir. Thank you. You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen of the jury, we are going to recess now for about ten minutes. During that recess, of course, the same instructions

Perez - cross

will be in effect.

Gentlemen, come up here.

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury:)

THE COURT: How long is it going to take you to produce this stuff and give it to Mr. Greenspahn?

The reason I ask that is, does either one of you have any objection to me recessing for a sufficient length of time and letting the jury go across the street and get a cup of coffee and coming back? That will probably be about 10:20.

MR. BIERMAN: Excellent.

THE COURT: All right.

(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had:)

THE COURT: Ladies and gentlemen of the jury, I have just had a discussion with counsel. And they have agreed that we could recess for about twenty

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Perez - cross

minutes. And if you wish, you can go across the street and get a cup of coffee and get back. Try to be back in about twenty minutes, if you will.

The same instructions, of course, will be in effect.

(Thereupon a recess was taken, pursuant to which the following proceedings were had:)

THE COURT: Are you gentlemen ready to proceed?

MR. GREENSPAHN: Yes, sir.

THE COURT: Call your next witness.

MR. KLEIN: I would like to take a witness out of order at this time.

THE COURT: That is perfectly all right. You may.

MR. KLEIN: I will call Mr. Moseley.

THEREUPON--

HARRY MOSELEY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

Moseley - direct

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Harry Moseley. I live in Tampa, Florida, at 2302 Temple Terrace Highway.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Moseley, I call your attention to May 30, 1968. Were you working on that day?

A Yes, sir, I was.

Q Where were you working?

A I was working on the docks, loading a ship, the ASAKA MARU.

Q Where was that?

A In Tampa.

Q At what time were you working on that day?

A My regular shift that night was eleven o'clock at night until seven in the morning, but I was called in four hours early overtime.

Q What time did you begin work?

A Seven o'clock.

Moseley - direct

Q In the evening of that day?

A Yes.

Q Now, what type of work were you doing at that time?

A Gantry operator.

Q What is a gantry?

A It is a facility for loading bulk cargo on a ship.

Q And where were you positioned at that particular time?

A We had the boom down over No. 4 hold.

Q Were you on the ship itself or--

A No. I was on the gantry right directly alongside the ship.

Q Did anything out of the ordinary happen while you were on the gantry at that time?

A Well, everything was going along as normal and all of a sudden there was a loud noise, sounded like an explosion, and the water shot high in the air.

Q Where was it, if you were able to tell?

A In the stern of the ship.

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Moseley - direct

Q What happened to you, if anything?

A Well, there was just a little confusion. It almost knocked me down, but it didn't. It was just a scary thing, that's all.

Q What did you do subsequently?

A Well, I don't know how much time elapsed in there, but eventually I got down off the gantry onto the dock, and we went back--me and the rest of the men on my crew and the foreman--and some of the ship's crew to inspect the damage in the ship.

Q What did you observe in the way of damage on the ship?

A There were two holes in the stern. One was in the right side. It was a small hole--a large hole on the right side and a small hole on the left.

Q I am going to show you now a group of photographs and ask you if you recognize--

THE COURT: Which side of the ship was alongside the pier--the starboard or port side?

THE WITNESS: The port side.

BY MR. KLEIN:

Moseley - direct

Q Do you have any familiarity at all with any of these photographs?

A Yes.

Q Do you recognize those photographs?

A Yes, I do.

Q What is it that you recognize in those pictures?

A Well, I recognize the ship and I recognize the holes.

Q Where is the hole?

A The hole right in the stern of the ship, just above the rudder.

Q Do these photographs accurately depict what you saw at that particular time?

A Yes, sir, they do.

MR. KLEIN: We will offer these into evidence as a composite exhibit.

MR. GREENSPAHN: Are they all the same picture, Counsel?

MR. KLEIN: I think they are different.

MR. GREENSPAHN: The only objection that I have to the introduction of these pictures is

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Moseley - direct

that at this point they are not relevant or material to the pending offenses.

THE COURT: All right, sir. The objection will be overruled at this time, and the pictures will be admitted into evidence as Composite Exhibit No. 26.

(Thereupon the photographs referred to were received in evidence as Government's Exhibit No. 26.)

MR. KLEIN: No further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Moseley, what was the docking facility that this vessel was at, at the time you were testifying about?

A Well--

Q Was this a public docking area or a private docking area?

A Sir, I guess you would call it a private area. It is leased to the company that I work

Moseley - cross

for, and it is just for the sole purpose of loading ships for phosphate.

Q After the explosion you came down from your gantry and observed the--the nautical term would be port side, the one closest to the pier?

A The one closest to the pier was the port side, which was the smaller hole.

Q What would you say the time interval was from the time that you came down from the gantry until you got to the area of the explosion?

A No more than five minutes.

Q Were there other people there with you at that time; and, if so, how many?

A Yes, there were other people, and it is really hard to say. I would say probably about seven to ten people, counting the part of the ship's crew.

Q And when you first observed the port side and the damage done to the port side, did you form a conclusion as to how this had come about, what the instrumentality of it was?

MR. KLEIN: I object to that as beyond the scope of the direct.

Moseley - cross

THE COURT: Well, I do not imagine this man has to be an expert--and I doubt seriously if he is an expert--but as a layman, if he has an opinion, I'll permit him to express an opinion.

Do you have any opinion as to how this hole that you saw was created?

THE WITNESS: Yes, your Honor. I thought it was an explosion caused from something--just some sort of an explosion from within the ship, because the metal was pushed outward.

BY MR. GREENSPAHN:

Q Did you observe any debris, any flotsam, anything that might indicate to you what the mechanism, if any mechanism, in fact, was employed in this instance, was?

A No, I didn't.

Q Did you see any people there that were not recognizable to you as dock workers or as a ship crew?

A Well--

THE COURT: At what time are you speaking about now?

Moseley - cross

BY MR. GREENSPAHN:

Q At the time you came down from the gantry to observe the damage to the port side of the vessel.

A No, I didn't.

Q I know you are from Tampa, and before this I hadn't seen you in the courtroom. Can you look at the table to my right and look at the people at that table and tell me if you have before ever seen any of these people?

A No, I don't believe so.

Q In this dock area where the ASAKA MARU was berthed at the time of the explosion, were there any security precautions that you are aware of? Were there patrolling security guards or a guard fence, anything that would keep people out that didn't belong there?

A We have a gate and a gate guard at the plant.

Q Do you have to show identification to get in?

A Yes.

Moseley - cross

Q To your knowledge had there been any breach of security on May 30?

A Well, I couldn't say. I don't know.

Q You don't know of any?

THE COURT: He does not know. So far as he is concerned, he didn't see any strangers or any people not known to him.

That is right, is it not, sir?

THE WITNESS: Yes, sir.

BY MR. GREENSPAHN:

Q Do you have any personal and present knowledge as to when these photographs were taken?

A No, I don't.

MR. GREENSPAHN: I have no further questions. Thank you.

THE COURT: All right. Redirect examination?

MR. KLEIN: No redirect.

THE COURT: You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

Phelps - direct

THEREUPON--

JOHN C. PHELPS,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: John C. Phelps, 3801
Biscayne Boulevard. FBI agent.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q How long have you been so employed?

A Seven years.

Q Were you on duty on August 22, 1968?

A Yes, sir.

Q Where were you, sir?

A I was here in Miami in an airplane.

Q What, if anything, did you observe?

A I observed a red car which was on
Southwest 1st Street. This car drove to 735 Southwest
1st Street, drove into the driveway to the rear of the
house, turned around, drove back out on the street and

Phelps - direct

parked on the street near a blue Chevrolet. The driver got out of the car, went into the house. A short while later he came out of the house, got back in the car again, drove around to the rear of the house. At this time a male, of possibly Latin extraction, came out of the house, went to the red car and from the luggage compartment took what appeared to be a cardboard box from the car and carried it into the house.

Q Can you describe that box, sir?

A Approximately two and a half, possibly three feet long and a foot and a half wide, roughly.

Q Could you discern any coloring on the box from your airplane surveillance?

A It was the color of a standard cardboard and there was something red on it.

Q Was it, sir, approximately the size and shape of Government's Exhibit 19?

A Yes.

Q Had you observed that red Corvair previous to this time?

A Yes, sir, I had.

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Phelps - direct

Q When was that?

A It was on the street west of this address at the 1150 Building, which I believe is 1150 Southwest 1st Street.

Q Was that the same day?

A Yes. Just a matter of minutes. In fact, it drove from the 1150 Building down to this 1st Street address.

Q And then from there, sir, did you observe where any of these vehicles went?

A The blue Chevrolet that was parked in front of the house left thereafter with three individuals in the car. This car then drove to downtown Miami, drove more or less all over downtown in an erratic fashion, just up one street and down another.

Q In your experience as an FBI agent, can you describe that driving method?

A Yes. This is a method employed to detect if anyone is following another car or following in another car.

Q During the course of your surveillance, were you using your naked eye only?

Phelps - direct

A No, sir. I had binoculars.

Q Did you observe anything further on the 22nd?

A Well, yes. This blue car went various other places.

Q Were you on duty on August 27, 1968?

A Yes, sir.

Q Where were you?

A In the same plane again.

Q What did you observe?

A I believe it was the same red car that had all the appearance as the one before, was parked at an address. This car was earlier seen at a cafeteria parking lot.

Q By you, sir?

A Yes, sir. And the same type box as the one described before was taken from a greenish-blue-colored car and placed in this red car. Then this red car was driven to the back of an apartment house. It stayed there from two to three hours.

Q Were you able to keep constant surveillance of the car, sir?

Phelps - direct

A Yes, sir.

Q During this course of two or three hours was the box ever removed from it?

A No, sir.

Q Then what occurred?

A When it pulled in behind the apartment house, it parked beside a two-tone brown automobile. At around three to four o'clock in the afternoon this brown automobile drove to the 735 Southwest 1st Street address that I mentioned before. The driver of the car talked with two males who came from the house. After they talked a while, one of these males got in the car with the driver and they returned to the apartment house where the red car was parked.

At this time the trunk of this red car was opened and a box similar to that one was removed and placed in the luggage compartment of the two-tone brown car. Then the passenger who had been picked up at the 735 Southwest 1st Street address took the brown Pontiac and drove away. He drove to 31st Street Northwest, the address is 137. He drove into the yard of this address, talked with someone in the house for

Phelps - direct

a few minutes, re-entered the car, drove back on to 31st Street, one door west of this address, drove into the driveway to a small house which is cream colored and at the rear of 153 Northwest 31st Street, turned around in this yard in front of this smaller house, backed the car up to the door, and an older man opened the door, the driver of the brown car opened the trunk and carried the box similar to that one into the house. He then got in the brown car and left.

Q During the course of both of thee surveillances, Agent Phelps, were you in contact with anyone?

A Yes, sir, I was in constant radio contact with other units on the ground.

MR. BIERMAN: No further questions.

THE COURT: Cross examination, please?

CROSS EXAMINATION

BYMR. GREENSPAHN:

Q Agent Phelps, describe to me, if you will, the type airplane that you were in.

A A Cessna 172.

Q How many people does that airplane hold?

Phelps - direct/cross

A It's a four-placer.

Q How many propellers are there? Is it single engine or double engine?

A Single.

Q On the 22nd of August, at what time did you board that airplane and alight from the ground?

A I don't know exactly.

Q Well, approximately.

A Probably around nine to nine-thirty in the morning.

Q From what place did you take off?

A Opa-locka Airport.

Q From nine or nine-thirty in the morning you were airborne until what time, sir?

A Again I do not know exactly.

Q Do you have your notes?

A No, sir.

Q Would you like a copy of your notes? Perhaps that will refresh your memory. These were provided to me by the United States Attorney a few moments ago.

A Thank you. I don't believe it says how

Phelps - cross

long I was airborne.

Q Well, you indicate in your memorandum that you pursued a surveillance until 4:46 p.m. Was that the entire air surveillance or was some of it spent on the ground?

A No, sir. Here I have "At 2:00 o'clock p.m. surveillance discontinued." At that time we went to refuel the airplane.

Q So you were airborne, then, from nine or nine-thirty until approximately two o'clock in the afternoon?

A Yes, sir, roughly.

Q What were the weather conditions on August 22, as you recall them?

A Basically fair weather.

Q What other agents were with you in the aircraft?

A None.

Q Who was piloting the aircraft?

MR. BIERMAN: Your Honor, I am going to object to this as being irrelevant to this inquiry.

THE COURT: I am going to overrule the

Phelps - cross

objection. If he knows the name of the pilot, he can give it.

MR. GREENSPAHN: Thank you, your Honor.

A His name is Tom Feeney.

BY MR. GREENSPAHN:

Q Do you know the altitude at which you were flying when you made your surveillance?

A Yes, sir. We were maintaining roughly 1,000 feet which varied down to 900 up to 1100, but roughly we were holding at 1,000 feet.

Q Do you know the make or the power of the binoculars that you were using?

A I believe they are called 7x35s or 7x50s. I couldn't be sure on that.

Q Now, when you saw the red Corvair and you noticed somebody in that automobile, were you able to identify that individual?

A No, sir.

Q Were you later able to identify any of the persons that you have spoken about in the course of your direct testimony?

A From the plane?

Phelps - cross

Q Yes, sir.

A No, sir.

Q Were you able to discern any markings on any of the houses that you referred to that would indicate the addresses of those various houses?

A No, sir.

Q When you testified to the addresses, for instance, 735 Southwest 1st Street, 153 Northwest 31st Street, that testimony is not of your observation at the time that you were in the aircraft, is it?

A No, sir. I had been there previously.

Q Did you recognize those houses as being those houses when you were in the aircraft, the same as you had been in previously?

A The 735 Southwest 1st Street address, yes, sir. I had been there previously. On the others, the ground agents, at the time I told them of the markings, went by and relayed the addresses.

Q When was the time most recent to the time of your August 22nd flight that you had been to 735 Southwest 1st Street?

A I believe it was August 21 was the

Phelps - cross

latest.

6-2

Q Were you on surveillance there at that time?

A No, sir.

Q What was your purpose in being there?

A I knew that this was the home of one of the persons currently under investigation.

Q Were you inside of that home?

A No, sir.

Q Now, sir, you described the box or the container that you visualized from the air as being similar to the box that Mr. Bierman showed you and held it up for you at this time. Now, did you see anything other than the physical exterior of the box?

A No, sir.

Q Do you, of your own knowledge, know what, if anything, was in the box at the time that you observed it being passed from the trunk of an automobile and around the automobile and the individuals?

A No, sir. I was in the plane at that time.

MR. GREENSPAHN: That is all I have.

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Phelps - cross/redirect

Thank you.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q In relation to that box, did you notice anyone carrying it?

A Yes, sir. The first time there was a male who came from the 735 Southwest 1st Street address and carried the box back into the house. On the second occasion the male who had driven the two-tone brown car, when he delivered the box, carried it from the trunk into the house.

Q Can you describe his motion as he carried it? Were you able to observe him?

A Yes. He reached into the trunk, picked the box up. From the way he more or less strained, the box had some weight to it. You could tell by the way he was carrying the box that it did have some weight.

Q On both occasions?

A Yes.

MR. BIERMAN: I have nothing further.
RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did you recognize that individual at

Phelps - recross

that time? Did you know who it was?

A No, sir.

Q And when you talk about straining or the appearance of the individual, what was the appearance that lead you to your conclusion that there was a strain placed on the man?

A Do you want me to show you?

Q Yes.

A (Demonstrating) The box now weighs very little. You can pick it up like so. But when the box was taken from the trunk and picked up and carried, he was sort of leaning back like one will do when there is some weight to the box.

Q And you could see this from a thousand feet up?

A Yes.

MR. GREENSPAHN: I have nothing else.

THE COURT: Thank you very much, sir.
You may be excused.

(Witness excused)

THE COURT: Call your next witness,
please.

Ball - direct

THEREUPON--

JOSEPH C. BALL,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is Joseph C. Ball.
I am a Special Agent for the FBI. And I live at 14020
North Miami Avenue.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Ball, how long have you been so
employed, sir?

A Eighteen years.

Q Do you, sir, know Ricardo Morales?

A Yes, sir.

Q Did you ever have occasion to give him
anything?

A Yes, sir.

Q I call your attention to July 2, 1968,
and ask you what, if anything, you gave him on that

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Ball - direct

A On July 2, 1968, I gave him one hundred pounds of simulated dynamite.

Q How was that packed, sir?

A In two boxes; two 50-pound boxes which had been specially prepared.

Q I show you Government's Exhibit No. 19, Agent Ball, and ask you to closely examine this.

THE COURT: All right, sir. Ask your question.

BY MR. BIERMAN:

Q Is this box similar in type to the box in which you received it?

A Yes, sir, it is.

Q And did you, sir, have anything to do with the acquiring of this actual box right here?

A No, sir.

Q It wasn't done under your supervision and direction?

A No, sir.

Q Where, sir, did you get the two boxes of simulated dynamite that you delivered?

A They were shipped to me from Birmingham.

Ball - direct

Q How did you come to supply these two boxes in fact?

A Well, I conceived the idea of furnishing simulated dynamite, through a friend, to this group, and requested the authority of my headquarters to have such dynamite prepared. I received the authority; it was prepared. And I received a telephone call from the Birmingham office to the effect that this--

MR. GREENSPAHN: May it please the Court, I object.

THE COURT: I will sustain the objection as to the telephone call he received.

A I was advised that this had been shipped by express.

BY MR. BIERMAN:

Q Did you, in fact, pick it up at some time?

A Yes, sir.

Q Where did you make a delivery of it?

A The delivery actually was made at a parking lot behind the Howard Johnson at 27th Avenue and 36th Street.

Ball - direct

Q Did you make any other deliveries of similar type?

A Yes, sir.

Q When and where was that, sir, and how much?

A I made a delivery of one box to Mr. Morales at the parking lot of the Boulevard Cafeteria at about 50th Street and Biscayne Boulevard on the 13th of August; another one on the 14th of August, and another one on the 22nd of August. These were each 50-pound boxes.

Q And were they each made in the same place, sir?

A Yes, sir.

Q In addition to your delivery of the dynamite on the 13th, what other activity did you enter into on August 13?

A On August 13? After delivering the dynamite I proceeded to the vicinity of the parking lot behind a building located at about 12th Avenue and Southwest 1st Street.

Q Do you know the name of the building,

Ball - direct

sir?

A Truthfully it's either the 1150 Building or the 1190 Building. I can't recall. One of the two.

Q Do you have your notes?

A No, I don't.

Q Are these the original notes, sir, prepared by you (handing documents to the witness)?

A Yes, sir. These are my notes for the 22nd. There are other notes.

THE COURT: He is going to give you the others in a minute.

BY MR. BIERMAN:

Q (Handing notes to witness)

THE COURT: Please look at those and see if that will refresh your recollection as to the identity of the building that you are speaking about.

THE WITNESS: I am reasonably certain it's the 1150 Building.

BY MR. BIERMAN:

Q Okay. Did you, sir, observe anyone that you knew in that area?

A Yes, sir.

Ball - direct

Q Who was that?

A I observed, as I was passing--as I first arrived at the area before I had taken up a position, I was passing the vicinity--I was passing the corner of Southwest 1st Street and 12th Avenue. I was on 12th Avenue, proceeding south in an FBI car alone. And to my left I observed Mr. Bosch as he was walking south on Southwest 12th Avenue towards Southwest 1st Street, 2nd Street. He was accompanied by another male with bushy hair who was about, I would say, one step behind him.

Q Do you see that individual in the courtroom today, sir?

A I wouldn't be able to recognize that individual. I was concentrating on Mr. Bosch and trying to drive at the same time. Mr. Bosch had a newspaper in his hand and was just putting it under his arm.

Q Were you on duty on August 14, 1968, after you made the delivery of 50 pounds of dynamite to Mr. Morales?

A Yes. On August 14 I proceeded to the

Ball - direct

same area and took up a position on Southwest 3rd Street between 12th Avenue and 11th Avenue, in a Bureau car, alone.

Q What did you observe, sir?

A I heard a radio transmission to the effect--

MR. GREENSPAHN: Objection, your Honor.

THE COURT: Sustained.

BY MR. BIERMAN:

Q Do not tell us the contents of the transmission.

A All right. Later at about nine-thirty or nine-forty I was proceeding west on Southwest 6th Street looking for Mr. Bosch. I arrived at 14th Avenue and was taking a right at 14th Avenue and a blue Chevrolet came out into the street, into 2nd Street, and stopped as I was taking a right, and he was taking a left. This was Mr. Bosch driving. I was within two feet of him at that time. And I looked directly at him as I turned the corner.

Q Do you recall whether or not his headlights were on at this time?

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Ball - direct

A No, I don't.

Q On August 22, sir, of 1968, you testified that you made a delivery of dynamite, is that correct?

A That's right.

Q Simulated dynamite?

A Yes.

Q Where did you go from there after the delivery?

A August 22nd? This was in the morning. That was in the morning. I proceeded to the same area. As I arrived there, I observed Mr. Bosch just getting out of his car which was parked in front of 735 Southwest 1st Street. He got out of the car and went into this address.

Q Now, this Mr. Bosch that you are referring to, is that the same individual that is seated at the table there?

A Yes, sir.

Q In addition, sir, to your delivery of the dynamite to Ricardo Morales, did you give him anything else?

Ball - direct

A Yes, sir.

Q What was that?

A I paid him money on occasion, beginning in about April--

Q Do you know how much money you paid him?

A Yes, sir.

Q How much have you paid him?

A \$1400 total over a period of months.

MR. BIERMAN: I think there is an exhibit.

THE COURT: Court's Exhibit No. 1.

BY MR. BIERMAN:

Q Showing you Court's Exhibit No. 1, Agent Ball, would you examine this and see if these are the receipts which were prepared by you?

A May I take them out?

THE COURT: Yes, sir. Take your time.

THE WITNESS: A part of these are receipts which I had Mr. Morales sign at the time I gave him the money, yes, sir.

MR. BIERMAN: I have no further questions.

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Ball - cross

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Ball, when did you first conceive the idea that you told us about, of having a "friend" intervene in the transmission of dynamite or explosives to these people? That is the way you put it. I presume you meant the defendants in the case. When did that idea first come to your mind?

A I can't tell you exactly. I think it was about May of 1968.

Q Let's put it this way: Was it before you communicated with Ricardo Morales or was it at a time subsequent to that?

A It was during the time I was in continuous contact with Mr. Morales.

Q Who did you have in mind as far as this "friend" that you were talking about?

A Mr. Morales is the one I referred to as my friend.

Q When, if you can recall, did you and Morales first discuss the possibility of his

Ball - cross
participation in this thing?

A Along about the same time.

Q At what place did you and he first
discuss it?

A I don't recall.

Q Do you recall being in the Dade County
Jail with Mr. Morales on any occasion?

A No, sir.

Q Do you recall whether or not it was
approximately April 25 of this year that you and he
first communicated about this matter?

A I don't recall that, sir.

Q Did you approach him with the idea?

A (No response)

Q Well, let me withdraw and ask you that
question this way: Did you communicate your idea to
him that he was to be the intermediary, the friend,
in this plan that you had devised?

A The friend I am talking about is my
friend. I was talking about Ricardo Morales.

Q That is who I am talking about.

A Yes.

Ball - cross

Q When did you first approach him about this; and my question is, specifically, did you communicate this idea to him independently of his first coming to you? In other words, did you go to him or did he come to you?

A I really don't know.

Q Did you think Ricardo Morales would be inclined to participate in the plan with you before you conveyed it to him?

A I don't know if you want to know what I think.

Q That is what I am asking you.

A I think that I actually asked him first if he would be willing to do this.

Q And apparently he did evidence that he would be willing to do so?

A Yes, sir.

Q What arrangement or what agreement did you have with him as to the manner in which he was to be compensated? In other words, he did not just gratuitously do it for nothing. He did it for a reason. What did you tell him that you would give him or what

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Ball - cross

did you assure him of?

A Money didn't enter into it I don't think--you are asking me again what I think. I don't think--

THE COURT: No, sir, not what you think. What, if anything, did you promise him for participating in this matter?

THE WITNESS: I promised nothing.

BY MR. GREENSPAHN:

Q Did he ask for anything?

A Nothing, no, sir.

Q Did he ever ask for anything?

A Never.

Q Did you ever promise him anything?

A No, sir.

Q Yet you paid him money?

A Yes, sir.

Q Was that done upon your initiative or upon his initiative?

A It was done upon my initiative and, on occasion, over his objections.

Q How long have you been an agent with the

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Ball - cross

FBI?

THE COURT: Eighteen years. Let's go.

BY MR. GREENSPAHN:

Q How long have you known Ricardo Morales?

A Since March of this year, 1968.

Q That was before this plan was formulated?

A Yes, sir.

Q How was it that you became acquainted with him?

A I went to talk to him.

Q At what place, sir?

A I believe he first came to my office at my request.

Q Was there anybody else that paid money to Ricardo Morales other than yourself, either from your department or any other administrative agency of the Government?

A You are asking me if anybody else paid him?

Q Yes, sir, other than yourself.

THE COURT: As far as you know.

A To my knowledge, yes, sir. Mr. Davis--

Ball - cross

I have two receipts right in front of me here.

Q I notice you testified to the total but that was before you looked at those receipts. Do you know what the exact total of moneys paid to Mr. Morales was through the course of the last several months?

THE COURT: By you or anybody else?

A I don't know the exact total but--

BY MR. GREENSPAHN:

Q You have receipts, do you not, in front of you?

A Yes, sir.

Q Would you verbally refresh your memory and indicate to us those receipts that you made and any others that you know were done in the official course and scope of any other agent's duties as an FBI agent in this instance?

MR. BIERMAN: Your Honor, to obviate the need of this witness doing the addition, it comes to approximately \$2,000.

MR. GREENSPAHN: It is not \$1400?

As long as the Government is being gratuitous in this instance, would you permit me to

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Ball - cross

have these marked as defendants' exhibits?

MR. BIERMAN: They are in evidence.

THE COURT: They are already in evidence as Court's exhibits. I have put them in evidence myself, so that they would be available to everybody for whatever purpose they might serve.

BY MR. GREENSPAHN:

Q What is the last date, sir, of the payment to Mr. Morales?

A By myself?

Q By anybody, sir.

MR. BIERMAN: These exhibits speak for themselves.

THE COURT: Unless the date is different from the documents you have, I will sustain the objection on it, because the document is the best evidence.

BY MR. GREENSPAHN:

Q Did you handle the simulated dynamite yourself? That is, did you have occasion to carry the carton or any of the sticks yourself?

A Yes, sir.

Ball - cross

Q Did you handle it each and every time it was transmitted to Morales?

A No, sir.

Q Did you have any difficulty carrying it, one carton at a time?

A Fifty pounds. I didn't have any difficulty carrying fifty pounds.

Q It didn't place any undue strain on you, did it?

A No, sir.

Q Did you have anything to do with providing Mr. Morales with a tape recorder?

A No, sir.

MR. GREENSPAHN: I have nothing else, your Honor.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Ball, if you recall, sir, did you think of the simulated dynamite plan before or after Mr. Morales mentioned to you, if he did, that he had been requested to supply explosives?

Ball - redirect

A I thought of it before.

Q Had you communicated it to him before that?

A No, sir.

MR. BIERMAN: I have nothing further.

THE COURT: All right, sir. Thank you. You may be excused.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

BENJAMIN P. GROGAN,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Benjamin P. Grogan,
Special Agent, Federal Bureau of Investigation.
5601 Northwest 1st Avenue.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Grogan, how long have you been so

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Grogan - direct

employed, sir?

A Seven years.

Q Do you know Ricardo Morales?

A I do.

Q Did you have occasion, sir, to see him on September 26, 1968?

A Yes, I did.

Q Where was that, sir, and what occurred?

A This was at approximately 7:00 p.m. on the evening of September 26th, at which time I met him at 5601 Northwest 1st Avenue.

Q Is that your residence, sir?

A That is.

Q All right.

A We went into my apartment and, in the presence of two more agents I secured on his person an Edwards binaural tape recorder, a pocket tape recorder. It consists of a tape recorder, two microphones and an on-off switch.

Q Did you instruct him in its use, sir?

A I instructed him in its use, yes.

Q Where did you go from there?

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Grogan - direct

A After I had secured the tape recorder on his person, we made an agreement of where to meet later in the evening, after which we followed him to the residence, to the vicinity of the resident of Orlando Bosch.

Q Did you keep him under surveillance, sir?

A The car that I was in kept him under surveillance to the vicinity of Orlando Bosch, and we went and parked near the vicinity of where we were to meet him afterwards, which was West Flagler and 27th Street, near Jackson High School.

Q What address? What avenue?

A 27th. There is a high school there.

MR. GREENSPAHN: Your Honor, it is not consequential, I agree, but I would appreciate if counsel would not put words in the witness's mouth. The witness has stated Flagler and 27th Street. He didn't say "Avenue" until the Government advised this witness--

THE COURT: All right, sir.

A We waited there a little over approximately

Grogan - direct

in the vicinity of an hour, at which time Mr. Morales returned and I took the tape recorder off his person with the tape and marked the tape as evidence.

BY MR. BIERMAN:

Q Do you have that tape, sir?

A Yes, I do (producing tape).

MR. BIERMAN: Will you mark this as Government's Exhibit No. 27 for identification?

THE COURT: All right, sir.

(Thereupon the tape referred to was marked for identification as Government's Exhibit No. 27.)

BY MR. BIERMAN:

Q Did you do anything else with that tape, sir?

A Yes. I listened to the tape and made sure that it had recorded; and afterwards I made a copy of the tape, another tape from that tape, and I turned it over to our translator--Miss Sophia Saliba--for her to translate.

Q When you made the copy, sir, was it an exact copy? What method did you use in making that copy?

Grogan - direct

A I made an exact copy of it. I played this tape on a Norelco playback unit, and I had it plugged directly into another amplifier and a recorder, and I made a direct copy of it.

Q Did you remove or add anything to the conversation on the tape?

A No, I did not.

Q Do you have that copy with you?

A Yes, sir.

THE COURT: Is the copy an exact copy or was any screening or noise suppression devices used in making the copy?

THE WITNESS: No, your Honor.

THE COURT: It is an exact copy?

THE WITNESS: It is an exact copy.

BY MR. BIERMAN:

Q Did you and Mrs. Saliba listen to the original together, also?

A Yes, sir.

Q What was the purpose, sir, of making a copy?

A Well, one of the purposes of making a

Grogan - direct

copy was that in the event of playing the original back, like for instance something might have happened to it or with the tape recorder, start the motor running or if the tape would break, we at least had that.

THE COURT: If the tape got broken, you would be in an embarrassing situation?

THE WITNESS: Yes, your Honor.

THE COURT: Go ahead.

BY MR. BIERMAN:

Q At this time is the original still functioning?

A Yes, it is.

Q Then I won't use your copy. When was the next occasion that you had to see Ricardo Morales?

A On September 30 at approximately 11:00 a.m. Mr. Morales appeared in our office at the Federal Bureau of Investigation, and at that time I secured on his person the same tape recorder which is Serial No. 10, the same way I had before, and went over the use of it again. And at this time, at the very beginning of the tape I marked it with my voice

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Grogan - direct

for the date and identified myself on the tape.

Q Where did Mr. Morales go from there, if you know?

A I do not, because after that time I had nothing more to do with the surveillance, and I left him.

Q Did you see him later in the day?

A Yes, I did. He returned to our office at approximately 3:30 p.m., at which time I took the tape recorder and tape off of his person and marked the tape as evidence, listened to it and again made a copy of it.

Q Do you have that tape, sir?

A Yes, I do.

Q Did you listen to this tape in this envelope and was your voice on it?

A Yes, sir.

MR. BIERMAN: I ask that it be marked as Government's Exhibit No. 28 for identification.

(Thereupon the tape referred to was marked as Government's

Exhibit No. 28 for identification.)

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Grogan - direct

BY MR. BIERMAN:

Q When did you next see Mr. Morales?

A On the same day, September 30th; the evening of September 30th at approximately 7:00 p.m. He again showed up at 5601 Northwest 1st Avenue, at which time I, in the company of Special Agent Joseph Marszalek, made a search of Mr. Morales' person looking for any tools that might be on his person, after which search I secured on his person again this Edwards tape recorder, the same serial number, went over the use of it again with him. Then we went down to Mr. Morales' car, the red Corvair, and searched the Corvair for any tools.

Q What was the result of that search?

A We found nothing on his person nor in the Corvair.

Q What occurred after that?

A He got in his car and we immediately followed him to the residence of Aimee Miranda.

Q Did you have occasion to see him after that, sir?

A We watched him enter the residence of

Grogan - direct

Aimee Miranda. We parked down the street and stayed there until he came out. After approximately a little over an hour, Mr. Morales came out of the residence, got into his car, and we met him at the Jackson High School parking lot as prearranged.

7-1

Q Where is that located, sir?

A That is at 27th Avenue and West Flagler. It covers about two or three blocks there.

Q I show you what has been marked Government's Exhibit 25 in evidence and ask you when and where you have seen this before, sir.

A When Mr. Morales left the residence of Aimee Miranda and went to the parking lot at Jackson High School, he turned over this pair of pliers and this crescent wrench to us, which he stated he had taken out of the residence of Aimee Miranda and that they were his.

Q What did you do with them thereafter?

A We put them in a brown envelope and marked that envelope and put them in Mr. George Davis' mail slot so that he could mark them as evidence.

Q At that point, sir, did you remove

Grogan - direct

anything else from Mr. Morales?

A No, I did not. Mr. Morales stated that he was then going to the Jose Marti Building; that there was to be a meeting over there. And I did not remove the tape recorder from him. I asked him how much time he had recorded. He said approximately fifteen minutes. The tape runs for approximately forty to forty-five minutes. And rather than waste time taking the tape off, he drove over to the Jose Marti Building. We immediately followed him and we waited outside the Jose Marti Building until he left, which was somewhere around half an hour. We followed him back to the Jackson High School parking lot, at which time I took the tape recorder and the tape from him and again marked the tape as evidence and made a copy of it.

Q Do you have that, sir? Do you have that tape?

A (Producing tape)

MR. BIERMAN: I ask that it be marked as Government's Exhibit No. 29 for identification.

Grogan - direct

(Thereupon the tape referred to
was marked as Government's
Exhibit No. 29 for identification.)

BY MR. BIERMAN:

Q When did you next see Mr. Morales?

A That was on the evening of October 1,
1968, at approximately 8:40 in the evening. He
appeared at my apartment, and I again put the same
tape recorder on him, and he left my apartment and we
followed him over to the vicinity of the Jose Marti
Building, waited outside until he came out, which was
somewhere in the vicinity of thirty or forty minutes.
We met him at Jackson High School and I took the tape
off him and the tape recorder and secured it as
evidence, marking it.

Q Where was it that you met him? What
address?

A Do you mean where he came to first?

Q No. What you referred to as Jackson
High School.

A That was West Flagler and 27th Avenue.

Q Is this the tape?

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Grogan - direct

A This is tape No. 4.

MR. BIERMAN: May this be marked as
Government's Exhibit No. 30 for identification?

THE COURT: All right, sir.

(Thereupon the tape referred to
was marked as Government's
Exhibit No. 30 for identification.)

BY MR. BIERMAN:

Q Now, having received these tapes,
Agent Grogan, did you have anything further to do with
them?

A I made a copy of the tapes and I turned
them over to the translator after I had listened to
them. And I also listened to the tapes with the
translator.

Q Did you assist her in any way?

A In the translation? No.

Q In the technical playing of the tapes?

A In the technical playing of the tapes
I did, yes.

Q Would you explain what assistance you
offered.

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Grogan - direct

A Well, I showed her how to work out playback machine. And tape No.4, about three-quarters of the way toward the end, which took place October 1, our batteries apparently ran down a little and the tape ran slow on the recorder. Therefore it was necessary to take this tape which was to be played back at a fast speed, and I sent it to our laboratory in Washington to make a copy of this tape so it would be audible, the last part of it.

Q Did you use a different type of machine to listen to that tape?

A Yes. We used a machine that is a variable speed machine where you can play the tape at any speed or in-between speeds.

Q Do you have a copy of tape No. 4?

A Yes.

Q And after having listened to this, sir, are you able to say there is no difference in word additions or subtractions?

A There is none.

MR. BIERMAN: I would offer this as Government's Exhibit No. 30 for identification.

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Grogan - direct

THE COURT: It shall be marked for identification.

(Thereupon the tape referred to was marked as Government's Exhibit No. 30-A for identification.)

MR. BIERMAN: No further questions.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q How long have you lived in the Miami, Dade County, area, sir?

A Approximately two years with a lapse of six months in there.

Q During that period of time you have been regularly employed as an agent for the Federal Bureau of Investigation?

A Yes.

Q And your residence is in what part of town?

A It's 5601 Northwest 1st Avenue.

Q Now, sir, where is the recording device that you referred to as the Edwards recorder?

Grogan - cross

A I have it with me.

Q Was that device used by you in the playback of these tapes?

A That device was after I took the recording from Mr. Morales. I played it back on this device just to see that there was some voice there. However, you play back and make a copy of it. I used another machine. This is not a playback unit and it is not supposed to be used as such.

Q But it can be?

A It can be used.

MR. GREENSPAHN: I don't want to divest the Government of its property, but I think if they are going to have an opportunity to play these tapes, they should be played back on the same machine that they were made on if it has that capability, which obviously it does. And I would request, therefore, that Mr. Grogan be intrusted to leave his machine here for our use this evening.

MR. BIERMAN: And Mr. Grogan will be the one who will run them.

THE COURT: All right, sir. Fine.

Grogan - cross

BY MR. GREENSPAHN:

Q Now, I noted during the course of your direct testimony that you indicated that you searched Mr. Morales' car and you searched his person, as I understand it?

A Yes.

Q You searched for some tools. What was your concern about tools? Why did you search him?

A We wanted to make sure that he had no tools on his person.

Q What was the reason you did not want him to have tools on his person?

A Because he was going to the residence of Aimee Miranda to pick up tools which belonged to him and which were at her residence, and we wanted to be sure that he picked up these tools at her residence and that there were none on his person before he went there.

Q And you searched the automobile of Mr. Morales after he had gone into Aimee Miranda's?

A No. We searched it before he went into Aimee Miranda's. We searched it after placing the

Grogan - cross:

recording device on his person and after searching him.

Q Had you asked him if he had any tools in his automobile before you searched him?

A Yes.

Q And yet you searched it, anyway?

A Yes.

Q Was there a matter of trust involved in your relationship with Morales?

A No.

Q You didn't take his word for it?

A We took his word for it; yet we searched his car.

Q Did you have occasion at any other time during the course of your participation in the investigation of this case to conduct a search upon the person or property of Ricardo Morales?

A No.

MR. GREENSPAHN: Thank you, sir. I have nothing further.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Grogan - redirect

Q Agent Grogan, is it standard FBI procedure when someone is going out to recover some possible evidence, who is not an agent, to search him in advance?

A Yes.

MR. BIERMAN: I have nothing further.

THE COURT: You may step down, sir.

Thank you.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

WILLIAM E. DOWLING,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is William E.
Dowling, Miami, Florida. I am a special agent of the
Federal Bureau of Investigation.

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Dowling - direct

DIRECT EXAMINATION

BY MR. BIERMAN:

Q How long have you been so employed?

A Sixteen years.

Q I call your attention to September 26, 1968, and ask you if you were on duty at that time.

A Yes, I was.

Q Where were you, sir, and what occurred?

A I was at 5601 Northwest 1st Avenue at approximately 6:30 to 6:40 in the evening, at which time I met Ricardo Morales who came to that address; and Special Agent Benjamin Grogan was also there. And in my presence Agent Grogan installed a miniature tape recorder on the person of Ricardo Morales.

Q After that occurred and when Mr. Morales left the apartment, where did you go?

A I went with him but in separate cars to the residence of Orlando Bosch.

Q Did you go into the residence with him?

A No, I didn't. I remained outside when Mr. Morales went inside.

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U. S. DISTRICT COURT

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MAR 27 REC'D

#2439

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 68-420-Cr-WM

2/3

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ORLANDO BOSCH AVILA, et al.,

Defendants.

LAW OFFICES
DANIEL NEAL HELLER
1205 AINSLEY BUILDING
MIAMI, FLA. 33132

Transcript of proceedings at trial (continued)

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Michael Thompson

LEONARD LAIKEN
OFFICIAL REPORTER U. S. DISTRICT COURT
FEDERAL BUILDING
MIAMI, FLORIDA 33101

Dowling - direct

Q How long did you stay there?

A Approximately forty to forty-five minutes.

Q Did you observe Mr. Morales leaving?

A Yes, I did.

Q Where did you proceed to from there, sir?

A Mr. Morales proceeded to the vicinity of Northwest 27th Avenue and Flagler Street. I followed him down in another car, and at that point or near that point Agent Grogan and I removed the tape recorder from the person of Mr. Morales.

Q. Did you have occasion to see Mr. Morales again, sir?

A Yes, I did.

Q Where and when was that?

A I'm trying to remember the date.

Q Did you make notes of that?

A Yes, I did.

Q Do you have those notes?

A (No response)

Q Would you like to see a copy?

Dowling - direct

A I would like to see a copy. I think it was September 30, but I am not sure.

THE COURT: Do not think. Let's take a look at your notes and then see if that refreshes your recollection.

BY MR. BIERMAN:

Q Are these your handwritten notes, sir?

A Yes, they are.

Q Would you review them and see if that refreshes your memory?

A All right. On September 30 I was in the vicinity of the Jose Marti Building which is located on Southwest 8th Street and 3rd Avenue; and while in that vicinity I saw Ricardo Morales come to the building, go inside. And while he was standing in the rear lobby I saw him having a conversation with two individuals who are known to me as Jose Diaz Morejon and Jorge Gonzalez Gonzalez.

Q Do you see those two individuals in the courtroom today, sir?

A Yes, I do.

Q Will you point them out, please?

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Dowling - direct

A Mr. Gonzalez is the gentleman in the gray suit and white shirt, sitting toward the back there. And Jose Diaz Morejon is sitting next to him in the checkered jacket.

MR. BIERMAN: Let the record reflect that the witness has identified the defendants Andres Jorge Gonzalez Gonzalez and Jose Diaz Morejon, also known as Tony Prieto.

BY MR. BIERMAN:

Q At approximately what time was this?

A About 2:40 in the afternoon.

Q Were you on duty, sir, on August 14, 1968?

A Yes, I was.

Q Where were you then, sir?

A At about nine-thirty in the evening I was in a parked car on Southwest 2nd Street between 12th and 13th Avenues.

Q What, if anything, did you observe?

A I observed a blue 1961 Chevrolet driving out of the parking lot of the 1150 Building, which is the building located at 1150 Southwest 1st

Dowling - direct

Street. The car turned toward the west and approached my position. As it approached I was able to see that it had a Virginia license plate on the front, and as it went by I saw the Florida license plate on the back. As a result of seeing the license plate, I know that it was the car belonging to Orlando Bosch.

Q Is that the car which you had previously seen him driving in?

A Yes, I had seen him driving it previously.

MR. BIERMAN: I have nothing further. You may inquire.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q You were in the company of Agent Grogan, were you not, sir, on September 30?

A On the 30th?

Q Yes, sir.

A I was in an automobile by myself on the 30th.

Dowling - direct

Q When was it that you were with Grogan?

A On the 26th.

Q At that time you went to the Jackson High School during the course of that evening?

A No, that's not right. Miami High School.

Q That was the Miami High School?

A Right.

Q Did you participate in a search of Morales' person and a search of his automobile during the course of that evening?

A Yes, I did.

Q Did you assist Agent Grogan or did you do it yourself?

A I did it myself along with another agent, not Grogan.

Q Did Grogan that evening, to your recollection, conduct any search of Morales or of his automobile?

A Of Morales, yes.

Q Not the automobile?

A Not when I was at the automobile.

Dowling - cross

Agent Grogan was not there.

Q What was your purpose in searching the automobile?

A To determine if there was any other tape recorder in it or any tapes of the kind that we contemplated using.

Q And for what reason did you have suspicions that there might be another tape recorder?

MR. BIERMAN: I am going to object to the form of that question.

MR. GREENSPAHN: Let me rephrase the question.

THE COURT: All right, sir. Rephrase the question.

BY MR. GREENSPAHN:

Q Agent Dowling, did you have any reason to believe that there would be a tape recorder or other recording device in that automobile?

A No, we did not.

Q Is it your standard practice to search the automobile of an individual who is working as an undercover agent with you?

Dowling - cross

A It depends on the circumstances. In this case we wanted to be able to be in a position at this time to say that the tape we put on him was the only one he had in his possession or in his car.

Q Was he aware of the search?

A Yes, he was.

Q Now, you have made some identification of people that you know. You know Orlando Bosch and apparently you know Jorge Gonzalez Gonzalez and Jose Diaz Morejon. You say they were known to you. How did you know these people? How were they known to you?

A Mr. Gonzalez was pointed out to me by another agent who had previously interviewed him and identified him during the interview.

Q How about Mr. Morejon?

A The same situation.

Q How long have you been an FBI agent?

A Over sixteen years.

Q You are well trained in perception and in remembering things as they occur?

A Yes, sir.

Q Gonzalez is in the gray suit and Morejon

Dowling - cross
is in the checkered coat, as you indicated?

MR. GREENSPAHN: Do you want to stand
up?

THE WITNESS: Wait just a minute,
please. Will the gentleman in the yellow jacket look
this way, please?

THE COURT: Look this way.

THE WITNESS: I made a mistake. This
is Jose Diaz Morejon. They look quite a bit alike.

MR. GREENSPAHN: I will dispute that.
But the fact remains that this is Morejon and not
the other gentleman that you pointed out?

THE WITNESS: That's right.

MR. GREENSPAHN: I have nothing further.

THE COURT: All right. Thank you, sir.
You may be excused.

(Witness excused)

THEREUPON--

JOSEPH R. MARSZALEK,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

Marszalek - direct

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Joseph R. Marszalek. I am a Special Agent of the Federal Bureau of Investigation. I live at 1750 Northeast 115th Street, Miami.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q How long have you been so employed, Agent Marszalek?

A A little over twenty-one years.

Q Were you on duty, sir, on September 30, 1968?

A I was.

Q Where were you?

A I was on surveillance during the evening of September 30th in Miami.

Q At what time, sir, were you on surveillance?

A I was on duty from four to midnight.

Q What, if anything, did you observe?

A Just in what particular do you mean?

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Marszalek - direct

MR. GREENSPAHN: The question is explicit enough--"What did you observe?", meaning what did you observe without counsel telling the answer to Mr. Marszalek.

MR. BIERMAN: Well, there was eight hours.

BY MR. BIERMAN:

Q Did you observe any activity or movement, sir?

A Yes, sir, I did. I was instructed to go to the apartment of Benjamin Grogan to meet Ricardo Morales there.

Q At what time did you go there?

A May I refer to my notes?

THE COURT: Yes, sir, if you made notes of the thing at or about the time.

A About 6:35 p.m. I was at the apartment.

BY MR. BIERMAN:

Q After Agent Grogan placed the tape recorder on Mr. Morales, where did you go, sir?

A We followed Morales to the apartment of Aimee Miranda in Miami.

Marszalek - direct

Q And from there?

A From Aimee Miranda's apartment we went then to the parking lot of the Miami Senior High School.

Q Where is that located?

A West Flagler and 24th Avenue.

Q What occurred there?

A Morales turned over to me two tools, a pair of pliers and a small crescent wrench.

Q Who else was present? What other agents?

A Agent Ben Grogan was there with me.

Q Did you go anywhere from there, sir?

A Yes. We then followed Morales to the Jose Marti Building.

Q What, if anything, did you observe there?

A Well--

Q And approximately what time was it then?

A I have recorded here that Morales entered the Marti Building at 9:26 p.m. that same

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Marszalek - direct

evening. And I have a note here that I observed the brown Ford driven by Gonzalez Gonzalez. I observed Balan's black Chevrolet parked there, and I observed Bosch's blue Chevrolet parked there.

Q Was that at or about the Jose Marti Building?

A Immediately adjacent to the Jose Marti Building.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Marszalek, can I see your notes that you are relying on here?

A Yes, sir.

Q These are written by you, are they, and were they made simultaneously with the times indicated on them?

A Absolutely. I recorded those at the time those things occurred.

Q And your testimony today is based upon

Marszalek - cross

your refreshed memory after looking at these?

A Yes, sir.

Q You testified you went to the Miami Senior High School at West Flagler and 24th, is that right?

A Yes, sir.

Q Now, your notes, which were made independently and at the time, allegedly, that all of this took place indicates you went to the parking lot of Miami Jackson High.

A That's right. That's the way it's recorded.

Q All right, sir. Which is it: Miami Jackson High or Miami Senior High?

A I have since been informed it is Miami Senior High School.

Q I did not hear you. What did you say?

A I have since been informed that it is the Miami Senior High School.

Q When were you informed of that? Were you informed of that while you were sitting in the witness room?

A No, sir.

Marszalek - cross

Q Well, does the accuracy portrayed by your notations of September 30 reflect themselves in your other testimony?

MR. BIERMAN: I am going to object to the form of the question.

THE COURT: I will sustain the objection.

MR. GREENSPAHN: I have only one last question and that is this:

BY MR. GREENSPAHN:

Q Did you search the automobile or person of Mr. Morales?

A I did.

Q Who else was present when you searched him?

A Ben Grogan--Special Agent Ben Grogan.

Q Anybody else?

A No, sir.

Q What was your purpose in searching the automobile or person of Morales?

A To make sure that the tools that he turned over to me came from the apartment. He did not

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Marszalek - cross

have them on his person or hidden in his car before he got to the apartment.

Q And that was the only reason for the search?

A Yes, sir.

MR. GREENSPAHN: Thank you, sir.

MR. BIERMAN: I have nothing further.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Do you have any more short witnesses?

MR. BIERMAN: No more short witnesses.

THE COURT: All right, fine.

Gentlemen, I want to talk with you for a few minutes before I announce what the Court is going to do.

Ladies and gentlemen, if you will excuse us for about five minutes. The same instructions, of course, are applicable and I will talk with counsel and we will decide about tomorrow.

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(Thereupon the jury was excused,
pursuant to which the following
proceedings were had out of the
presence of the jury:)

THE COURT: What procedure does the
Government propose with respect to these tape
recordings?

MR. BIERMAN: We propose to play the
tape recordings and the Court will follow along with
our Spanish transcript and then the English translation--
first the Spanish transcript and then we will present
testimony outside the presence of the jury as to how
this was arrived at, and giving counsel for the
defendants an opportunity to find any discrepancies
between the transcript and the tape. And then we
would proceed, if the Court rules that they are
accurate, to play them for the jury. And then subse-
quent to that put Mrs. Saliba on with the translations.

MR. GREENSPAHN: Judge, if I may proce-
durally make a suggestion to the Court, the Court has
announced previously that tomorrow, Friday, is your
sentencing and arraignment day.

THE COURT: That is the reason I excused

the jury, because I want to discuss this thing before I told them I wanted them to come back.

MR. GREENSPAHN: I have no objection, of course, to working into the night tonight if need be.

THE COURT: Well, I would rather not do it if I do not have to.

I anticipate, gentlemen, that with my present calendar I can take care of it in about half an hour, which would mean that certainly by nine-thirty or fifteen minutes of ten I can start back on this case.

One of the reasons I am asking you is that, in an effort to avoid working or making you gentlemen work tonight and making myself work tonight, if we might not handle that in the morning, have the jury come back, say, at about twelve-thirty and proceed from there.

MR. BIERMAN: And to have our hearing as soon as the Court finishes the arraignment and sentence calendar?

THE COURT: Yes, sir. I think that might be a more satisfactory situation.

Now, I am in this rather unusual situation in that I can speak and understand a little Spanish. I am not competent, certainly, to interpret nor to follow it accurately in Spanish. So that if it is played to me, I would have to have an interpreter interpret it for me in order for me to reach any conclusion as to whether or not the translation is a correct translation.

MR. BIERMAN: We would not be offering the translations as correct at that time; only the transcription in the Spanish language. The same problem arises from listening to the Spanish.

THE COURT: I am just wondering if perhaps we might not do this: Mr. Greenspahn has his interpreter and the Government has its interpreter. It might be feasible to play these records or these tapes in the presence of these two interpreters, to see if they agree that the Spanish translation of it is correct. If they have a problem on a particular part of it, then I will have to call in my own interpreter and make my own mind up. It may well be that both of these people hearing the thing tomorrow morning--and I don't mind being here--I am

just talking about--

MR. GREENSPAHN: Here is the problem that I face. At this point I cannot challenge the interpretation that has been done by the FBI in several instances because after hearing part of the tape the other day I concluded the young man--the young man I had as an interpreter who was with me concluded that the recording contained a good part of it which was just plain inaudible and a lot of the things that are reflected on the transcript are not audible and are not subject, we feel, to interpretation. That is what I am afraid the Court is going to have to determine for itself.

THE COURT: I would not mind hearing it, too, but I am talking now about all of us hearing it in the presence of the two interpreters, and then when we get to the disputed parts we can raise some question or I can pass on it rather than me trying to hear it by myself in the first instance and determine whether it is correct, because I am just not that familiar enough with Spanish to be able to do it.

Of course, without knowing anything about Spanish I can tell whether it is inaudible.

MR. BIERMAN: On the transcription, your Honor, I would point out this took about thirty hours on the transcription originally, because, as Mr. Greenspahn points out, it is not readily audible.

THE COURT: What I would like for you gentlemen to do is-- Have you received a copy of this transcription?

MR. GREENSPAHN: Yes, sir, I have.

THE COURT: Can you gentlemen agree on what portions, if any, are immaterial and irrelevant and should be omitted?

MR. BIERMAN: We could probably agree on some of them.

THE COURT: Well, that might save a lot of time, because I understand that counsel is going to raise some objection. And if you can agree on some of it, it will leave that much less for me to have to rule on. So suppose we do this: I will recess until nine-thirty tomorrow morning. Just to play safe, I'll make it nine-forty-five tomorrow morning, at which time we will then proceed and have both interpreters present in Court listening to the thing. Of course, I will be listening to it, too. And we will

pass on it as we can.

In the meantime, if you gentlemen can agree on what you will both agree should be eliminated, then the other matters can be brought up before me and I will rule on them, and I think possibly certainly by twelve-thirty we should be in a position to go ahead and proceed.

MR. GREENSPAHN: I think the Court's suggestion is a good one.

What about Saturday and Sunday?

THE COURT: No, sir. I am not going to try the case Saturday or Sunday.

As you know, I left it up to the jury as to whether they wanted to sit Monday or not. I did that, first of all, because I had a feeling of responsibility for having missed a day because of my own illness. However, I am reluctant to make a jury sit if they do not want to. And the Marshal has advised me that the majority of the jury has stated that they would prefer not to sit Monday. So I do not think it would be best for the parties to make them do it if they do not want to. So I propose, when we recess Friday, to recess until Tuesday morning.

MR. GREENSPAHN: Will the Court work later tomorrow night or will it be about this time?

THE COURT: Probably until about six o'clock. It depends a little bit on the situation. If we have something we can finish in a reasonable time I would rather finish it. If not, we will quit.

MR. BIERMAN: Okay. That sounds fine, your Honor.

THE COURT: We can figure basically somewhere between five-thirty and six o'clock.

MR. GREENSPAHN: Fine.

THE COURT: I will excuse the jury until 9:45 tomorrow morning and then we will pick up as we suggested.

MR. BIERMAN: I thought your Honor was going to let the jury come back later and we would go through the tapes.

THE COURT: You are right. I beg your pardon. I will excuse them until twelve-thirty.

(Thereupon the jury returned to the courtroom, pursuant to which the following proceedings were had:)

THE COURT: Ladies and gentlemen of the jury, I think perhaps I told you that, having the criminal calendar, I have some other matters that I have to attend to tomorrow that take precedence over this case. There are some matters that I have to hear. And while I dislike giving the case to you piecemeal more or less as it is, I am not going to be able to start this case until later in the morning. So I am going to recess this case until twelve-thirty tomorrow, at which time we will probably then continue until about six o'clock.

I have been advised by the Marshal that the majority of the jury had decided that they do not want to work Monday, is that correct?

(The jury indicates
in the affirmative.)

THE COURT: So when we recess Friday, then we will recess until Tuesday morning. So you can make your plans accordingly.

The instructions that I have given you, of course, are still applicable and will be applicable during each and every recess. With that I will excuse you until twelve-thirty tomorrow morning. If you will

be here at that time we will do our best to get started on this case.

This case will be recessed until 9:45 tomorrow morning.

(Thereupon at 6:00 o'clock p.m., the hearing was recessed until 9:45 o'clock a.m., with the jury to return at 12:30 o'clock p.m. on Friday, November 8, 1968.)

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MIAMI, FLORIDA

Friday, November 8, 1968

(The hearing resumed, pursuant to prior recess, at 10:00 o'clock a.m., whereupon the following proceedings were had out of the presence of the jury:)

THE COURT: All right, gentlemen. We will call this matter this morning for the Government to make a presentation with respect to some tape recordings. The Government may proceed.

MR. BIERMAN: Your Honor, the Court suggested last night that we go through these and do some pruning, which we have done. Mr. Greenspahn did his and we did ours, and I do not know whether the twain shall meet or not.

MR. GREENSPAHN: Your Honor, we are in complete agreement with the Government's deletions as far as they go, but we feel that the entirety of the thing should be struck. Therefore, many of these matters should be left up to the consideration of the Court.

THE COURT: All right, sir.

MR. BIERMAN: Then I will proceed to tell the Court--

THE COURT: First of all, let me ask this question: Gentlemen, is there any question about the translations being an accurate reflection as to what actually appears on the tape?

MR. GREENSPAHN: There is this question, Judge: Mr. Bierman announced to the Court that the Government spent some thirty or forty hours, using special equipment, to hear this. In the little bit of it that we have pre-heard on this, most of it that we have heard has been completely inaudible. Therefore, any translation that is inaudible is contested.

THE COURT: Well, I have read this transcript of the thing; I studied it over last night and, of course, it contains references where certain portions were unintelligible or inaudible to the translators. Are there other portions which purport to be translations that you say are inaudible?

MR. GREENSPAHN: Yes, sir. Without the use of the special equipment--and I don't know anything about the special equipment--and thirty or forty hours of time, I doubt if much could be made of a good part

of this.

This is the point. Of course, I have not had the access to the special equipment. So I don't know--

MR. BIERMAN: We have the equipment here.

THE COURT: You will have the benefit of any equipment that the Government used. Let's proceed.

MR. BIERMAN: Shall we announce what we agreed to, first, to save time?

MR. GREENSPAHN: Before we do that, just for the record I would move to exclude any of it on the basis of the case of Collins v. Wainwright, which is a Fifth Circuit case. I have a copy of the opinion from the court if the Court requires it. And I feel that it pertains to a situation very much akin to the situation at hand. And, of course, this is a case that in the end result holds there has been a violation of the Fourth Amendment to the Constitution by the insertion of microphones and other listening devices and recording devices into the privacy of the premises operated by the defendants. I am sure the

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Court is aware of the case.

THE COURT: All right, sir. The Court will at the present time deny your motion upon the basis of *Fountain v. United States*, 384 Fed. 2d 624; and *Hoffa v. United States*, 385 U.S. 293.

MR. BIERMAN: Starting at Tape 1, Page 3, we would agree to omit Page 4 up until the last paragraph. And we are throwing out Page 3. Page 3 of Tape 1 we agree to omit.

On Page 4 we agree to omit all except the last paragraph which begins "B: The bad thing about Orozquito..."

THE COURT: Okay.

MR. GREENSPAHN: Do you want us to argue these as we go along, or do you want to wait until we are done and come back? I think it would be easier if we did them as we go along.

THE COURT: Then let's get them as we go along.

MR. GREENSPAHN: As far as Page 4 is concerned, that counsel wants to leave in, that is completely irrelevant and immaterial and has no reference to anything in this case.

MR. BIERMAN: Your Honor, it sets up the next page which discusses the recoilless rifle. It is just the introduction to it. If you see at the beginning of the next page, it says "He is the one who talked to you about the recoilless rifle that you have, isn't that so?"

THE COURT: Yes, sir.

MR. BIERMAN: Then it goes on about lending it to him and they dumped it right there, and we have had testimony about where it was dumped, and Orlando told Morales where it was dumped.

MR. GREENSPAHN: Here is the problem. Again, many of these similar situations will arise throughout the course of this. Most of the incriminating statements that are made are statements that are made by Morales who was trying to pull information out of these people.

With particular reference to this area of the transcript, there is nothing that ties in this conversation with any of the evidence in this case. Again, it is out of context, and I think it will be unfair to use this just because the word "recoilless" is mentioned, because there is more than one "recoilless"

mentioned in the course of this transcript, as the Court knows. I just do not see how any of it is material or relevant. They have got to have more than just an inference, Judge, that this might be the same thing that they are talking about. They have got to lay a proper foundation.

THE COURT: How are we going to handle this thing? I am asking counsel. With respect to the actual tapes?

MR. BIERMAN: I would suggest this, your Honor: that since the tapes are totally in Spanish, that we play the entire tapes for the jury.

THE COURT: You are going to have to.

MR. BIERMAN: And let them listen to it and then just translate those portions.

THE COURT: Portions of it, but then I am a little bit disturbed about how you are going to handle a translation that would be read or made to the jury.

MR. BIERMAN: I would suggest that what we would do would be play the tape and then ask the interpreter to translate those parts which the

Court has ruled relevant, and then--the jury does not understand Spanish. So it is only for their sake to listen to them so as to get a feeling for what the tapes sound like, and then we just translate what is agreed on is relevant.

MR. GREENSPAHN: Here again is the problem, without belaboring the point.

As you will note, at the top of Page 3, where the translator's notes indicates that the first half of the tape is drowned out because of a television playing in the background, it is entirely possible--

I'm not saying this is the case--but it is possible that during the course of this portion that is drowned out and not incorporated in the transcript of the testimony, the conversation between the parties included a statement such as, "Did you hear about this event?"

"Yes, I heard about it," and then the references that are later made to it are what the man heard, which is certainly a long way from having any first-hand direct knowledge of it. This is why I feel that it either is in its entirety good or in its entirety bad, because it leaves too much to the

imagination as to what foundation, if any, was laid for any of the conversations that ensued after that. We don't know what was said in the first half of the tape.

MR. BIERMAN: Your Honor, on any occasion where you do not tape your entire conversations with a person for the entire five months that Morales knew Bosch--he was here and available for cross examination as to whether that did, in fact, exist.

MR. GREENSPAHN: Obviously I am not going to cross examine him about the tapes until the tapes are either admitted or refused in evidence. The point is, it lays itself open to so much imagination on the part of the hearer or the viewer.

If there is a direct statement saying, "Yes, I did," that is a different story. That is an admission against interest. But if you will note, if I read these things correctly, that is never the case. There is conversation about it, conversation about something that was in the newspapers, something that was broadcast over the radio, something that the Cuban people and American people in this community had an indirect knowledge of by reason of communications media.

That is the thing that disturbs me about these transcripts. There is never any relevant or real direct statement as such. It is a relation of what was at that time public knowledge. Do I make my point?

THE COURT: Yes, sir, I understand what you are saying.

MR. BIERMAN: Your Honor, the public does not know what activity the FBI undertook. The public does not know that Marcelino went out to look at the gun. The public does not know that they followed the wrong car away from the bridge that evening. And this is all corroborative of what Mr. Morales said. And that is the purpose of the Lopez rule that you cannot use a tape until the person is present there who recorded it. And that witness has been here, he is subject to recall for cross examination about these tapes.

MR. GREENSPAHN: They talk about the FBI following them for months and months and months before this ever happened. It is no secret that they were aware of the fact that they were under surveillance, not necessarily about these things but perhaps about

other things.

The FBI has instituted four or five previous prosecutions against some of these people. That again lends itself to the imagination of the hearer.

MR. BIERMAN: Shall we continue?

THE COURT: All right, sir. We will go ahead. I am not ruling on this thing. We are just seeing what you say.

So far as you are concerned, you want to start with the last statement on Page 4?

MR. BIERMAN: Continue to 5 and 6 and 7 and 8; and then on Page 9 we would omit that as irrelevant matter. And omit Page 10 up to the last question, "Orlando, what do you think of the press?"

THE COURT: What do you say?

MR. GREENSPAHN: No argument as we go along, your Honor.

THE COURT: No.

MR. BIERMAN: Then at Page 10 we would omit the top portion which relate to Dr. Bosch's wife. That is on Page 11. And then include the last statement by Dr. Bosch to the end of Page 12.

THE COURT: You are going to have to include the statements by Mr. Morales preceding his statement, because that is what brings his statement out.

MR. GREENSPAHN: That's right.

THE COURT: Now you go on to 12.

MR. BIERMAN: And we include 12.

Page 13 would be out. Page 14 is out. Page 15, the first paragraph, is out. And then from "Did you see Rivero saying that the matter of the cannon blast..."? We go until the next to the last Bosch statement on Page 16.

THE COURT: Up to and including or omitting the last?

MR. BIERMAN: Until and including the last.

THE COURT: On Page 16?

MR. BIERMAN: On 16.

THE COURT: All right.

MR. BIERMAN: Then from the "M" at the bottom of Page 16, 17, 18, 19, 20 and 21 would be out.

THE COURT: 17, 18, 19, 20 and 21 are out?

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MR. BIERMAN: Yes, sir. Then on Page 22 beginning with "Well, I will give you a call in two or three days" after "for being a blackmailer."

THE COURT: All right. Starting there now?

MR. BIERMAN: Right.

THE COURT: Okay.

MR. BIERMAN: Then we would just include that "Well, I'll give you a call" and then the response on that. That would be all we would want from that page. The remainder of the page would be out.

THE COURT: How about Page 23?

MR. BIERMAN: On Page 23, the first two paragraphs would be out and the last paragraph would be in.

THE COURT: All right. That concludes the first tape. Is there any part of that which the Government has stated it desires to omit that the defense does not want omitted?

MR. GREENSPAHN: Yes. That is a fair question, but depending upon your rulings, there are references throughout the first tape--for instance, to

Dr. Bosch's denunciation of the local Cuban terroristic activities against these bombings that occurred in Miami. I would want that in, of course.

THE COURT: Where is that?

MR. GREENSPAHN: That is near the end, Judge.

THE COURT: I recall in these tapes somewhere where he expresses that.

MR. GREENSPAHN: It is repeated a couple of times. The first time is on Page 23 at the top of the page, which is the first real reference to it.

Something else that disturbs me--and I really don't understand it--and I wonder if the Court has any such similar impression. On Page 22--

THE COURT: Are you using the type-written numbers or--

MR. GREENSPAHN: The numbers down at the bottom of the page.

THE COURT: Page 22? All right, sir.

MR. GREENSPAHN: If I read this correctly, it begins to lose a lot of its connection and meaning to this defendant. Because you will note

the fourth paragraph from the bottom of the page the words "Very well." The next is by Morales which reads, "Well, so you have resumed your friendship with Dr. Bosch. Now that your trial is coming up, you chose a bad time, and all that sort of thing."

THE COURT: Okay. I've got it.

MR. GREENSPAHN: Of course, Bosch didn't have a trial pending. So the impression I have here is that maybe this wasn't Dr. Bosch talking, because they are talking about Dr. Bosch.

MR. BIERMAN: To explain what this is, they are talking about a blackmailer and Morales is saying how he will be blackmailed for resuming his friendship with Dr. Bosch.

MR. GREENSPAHN: I don't read it that way. I don't understand it that way.

MR. BIERMAN: The trial they are talking about is Morales' trial.

MR. GREENSPAHN: But you see this sentence: "Now that your trial is coming up, you chose a bad time, and all that sort of thing." That is Morales talking.

THE COURT: It reads the way Mr. Greenspahn

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says, actually, that Morales is telling Dr. Bosch "Now that your trial is coming up," and the inference would be certainly that he has been charged with something and has a trial coming up. I do not know whether it is an error in translation or what.

MR. BIERMAN: Well, what he is referring to is what people will say to him about being friendly with Bosch. It is Morales speaking, but--

MR. GREENSPAHN: That is not the way it reads. That is where the confusion is.

THE COURT: Well, giving it that interpretation, it could be susceptible of that interpretation. He is apparently speaking of himself in the third person. "Well, so you have resumed your friendship with Dr. Bosch." Certainly he is talking about himself.

MR. GREENSPAHN: Then the very next line where Dr. Bosch is supposedly talking, "Yes, yes, to blackmail you. Look, I have been a friend of Orlando for twenty years."

MR. BIERMAN: They are going to blackmail him and he will answer that he was a friend of

Bosch for twenty years. We have said we are willing to omit this. I don't know what it adds.

MR. GREENSPAHN: It doesn't add anything. There is just a question in my mind as to the validity of the whole transaction, frankly.

Then also, Judge, with reference to this first tape, the Court I am sure has noticed on Page 7, the fourth paragraph from the bottom where Bosch allegedly says, "Now they felt the stick. The Spanish one was after this?"

And Morales says "No, before, before."

It would indicate where a man was accusing him of having been the incipient force behind the bombing of the Spanish ship, in this instance he didn't know anything about it, because Morales was the one who told him when it was. This again, I just wonder, if we are excluding things, how much of this is favorable to Dr. Bosch.

MR. BIERMAN: This is it. We have offered this to be in, and if you feel it is favorable, we assure you can argue it.

MR. GREENSPAHN: That one sentence is favorable. I don't think the rest of it is favorable,

because I think it is susceptible to many inferences which are not established and for which no foundation is laid.

What I would like to do is, with the Court's permission, I would like to explain to the Court what I would like included if and when the Court has ruled on the admissibility of the tapes as a whole.

THE COURT: All right, sir.

MR. GREENSPAHN: Because that is obviously going to be influential if any portion of it is going in that it then becomes relevant to me what other portion should go in.

THE COURT: You want the question of the admissibility of the tapes as such ruled upon prior to my ruling?

MR. GREENSPAHN: Yes. In that way I will know where I am going with it.

THE COURT: All right, sir. I have no objection to doing that.

Does the Government have any further matters to offer before they offer the tapes into evidence?

MR. BIERMAN: In the trial or at this time?

THE COURT: Well, before me for the purpose of ruling preliminarily upon their admissibility. That is what counsel says he wants done, and I will do it that way.

MR. BIERMAN: The only thing we have further to offer are the people who listened to them and what method they used.

THE COURT: Then he wants you to lay your foundation, offer the tapes into evidence and then obtaining a ruling before he wants to go into the question of what, if any, part of it is to be omitted, if I should rule it is admissible. That's correct, isn't it?

MR. GREENSPAHN: I think that correctly states it.

THE COURT: All right, sir. We will proceed.

MR. BIERMAN: Does this include listening to the tape at this time? I am a little bit confused.

THE COURT: I am just ruling now on

the admissibility of the tapes as they are. If I rule that the tapes are admissible, before we proceed to present any evidence of it to the jury, I will listen to them and we will decide what parts might or might not be proper. We are just talking now about the tapes themselves in general, not as to whether it is a correct translation of them or whether the translator could or could not hear parts of it or parts of it were inaudible or anything else. We are just taking the tapes as they are in general.

MR. GREENSPAHN: Will the Court later rule on the motion to strike portions or would it be appropriate at that time?

THE COURT: Yes, sir.

MR. GREENSPAHN: Your Honor, before we hear the tapes, again for the record I would respectfully ask the Court that the tapes be heard on the equipment upon which they were made without special modification or alteration or other electronic devices.

THE COURT: No, sir, I am going to deny that motion. I am going to rule that the tapes do not have to be played back on the machine itself but can be played on any playback. The testimony has been

before me that while this machine is capable of playing back, it is not made specifically for that purpose. It is made specifically for the purpose of taking and recording, and if there is better or more capable equipment which will give a clearer playback, I will permit the Government to use that equipment. So I will, therefore, deny your motion that the tapes have to be played back on the same instrument on which they were recorded.

MR. GREENSPAHN: May I ask, then, for one final ruling from the Court? I don't know this equipment, and I presume that it is, in a sense, screening equipment. Will we hear them as the tapes are or with these changes on them?

MR. BIERMAN: The presumption is incorrect. This is not screening equipment. It is just regular listening equipment.

THE COURT: I understand the difference, actually, between this equipment is that it is basically standard regular equipment. The difficulty came in connection with tape No. 4 where apparently something went wrong and it was recorded too fast. Then a copy was made and this equipment that had to be

used in order to slow it down to what was a normal tone or conversational speech level.

Is that substantially correct?

MR. GROGAN: That's correct.

MR. GREENSPAHN: If that is correct, then I don't want any part of the background noise removed from those tapes.

THE COURT: No, sir. The testimony before is that these are exact copies. There has been no screening. I specifically asked about that, if you remember, and there was no screening. It is an exact copy allegedly of what took place.

MR. GREENSPAHN: Are we going to hear the copies or the originals?

THE COURT: The originals.

MR. GREENSPAHN: Fine.

THE COURT: If we have the originals there is no point in listening to the copies unless on tape No. 4 it is necessary to use the copies.

MR. GREENSPAHN: This is an unusual request of the Court, but I am sure the Government will have no objection. The courtroom is filled with people who speak the Spanish language and there are

personal matters spoken of in these tapes. Would the Court ask the people to remove themselves or permit me to have a minute to do so so we can do that?

MR. BIERMAN: We have no objection if he doesn't want it heard.

THE COURT: Do you want it done in the privacy of the Court?

MR. GREENSPAHN: I would like to, sir, for a reason that must be obvious to the Court.

THE COURT: All right, sir.

MR. GREENSPAHN: Will you give me about a two-minute recess and I will ask these people to wait out in the hall?

THE COURT: All right, sir. We will take a recess for five minutes and you explain to them.

I am perfectly willing to direct that the spectators leave the courtroom for the purpose of this particular hearing, but I would prefer, if you can, that you do it by explaining to them without me having to order it.

MR. GREENSPAHN: Yes, sir. I think that is the best way.

THE COURT: All right. We will take a few minutes' recess and see what you can do.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: Are you ready to proceed?

MR. BIERMAN: Yes, sir.

Agent Grogan, you are still under oath and you may be testifying. What is this that is on the recording, sir?

MR. GROGAN: This is the original of tape No. 1.

THE COURT: All right.

MR. BIERMAN: Have you listened to this before?

MR. GROGAN: Yes, I have.

MR. BIERMAN: Will you play it at this time, please?

(Thereupon the tape referred to was played before the Court.)

MR. BIERMAN: Is that your voice?

MR. GROGAN: Yes.

MR. BIERMAN: When did you begin the

transcription? At what point?

MR. GROGAN: We began it at zero on the machine.

MR. BIERMAN: Have we been into the transcribed period yet?

MRS. SALIBA: We have just come to the first speech that I have transcribed.

THE COURT: You just started the first part of it.

MR. BIERMAN: Proceed.

THE COURT: I wish you would identify, if you can, the voices as they go along. I have the Government's transcription of that, and I'll try to follow it on the transcription, but for the purpose of the record, I think it would be better. You may proceed.

(Thereupon the tape was played additionally.)

MR. BIERMAN: Where are we?

MRS. SALIBA: We are on Page 4, about to begin Mr. Morales' speech about halfway down the page.

MR. BIERMAN: Would you, as each new

voice comes on, just identify the voice?

MRS. SALIBA: It is rather hard
because--

THE COURT: I do not think that is
necessary.

MRS. SALIBA: I would lose my place
if I turned around to tell you, sir.

THE COURT: That is all right. I think
I can follow the thing. Go ahead.

MR. BIERMAN: Proceed.

(Thereupon the tape was played
additionally.)

MR. BIERMAN: We have earphones
available on the difficult areas.

THE COURT: Well, that is all right.
Go ahead and proceed.

MR. GREENSPAHN: Mark on this
transcript the point in question.

THE COURT: You cannot make out anything
about this paragraph about Marcelino?

MR. DIAZ (Interpreter for Mr.
Greenspahn): No, sir.

THE COURT: You cannot make anything out

of that?

MR. DIAZ: No, sir. There is quite a bit of noise.

THE COURT: Is there anything wrong with your ears?

MR. DIAZ: No, sir.

THE COURT: I can hear some of it myself and I cannot speak Spanish very well. I can understand a little bit of it, but I can hear some of it myself.

MR. GREENSPAHN: Not Marcelino.

MR. DIAZ: The "Marcelino" I don't hear at all.

MRS. SALIBA: I just wonder whether there is some reason for leaving that out, because he was told by Mr. Bosch that he didn't hear it.

THE COURT: I am not interested in the reasoning. Go ahead.

MR. GREENSPAHN: If the Court wishes to bring in another interpreter, I certainly will agree.

THE COURT: No, sir. He has a perfect right to be here and he has a perfect right to express

his opinion, and I will give it whatever weight I think it deserves. Go ahead.

(Thereupon Tape 1 was played to its conclusion, pursuant to which the following proceedings were had:)

MR. GREENSPAHN: There is one observation I made during the playing of these tapes. I don't know enough Spanish to say "Hello" in, but for instance, the very end of the tape is a good example of it--where on the transcription it reflects that an individual is making a statement. It appeared to me that during the conversation--and I tried to follow it on paper here--but during the course of some of these paragraphs there would be more than one person speaking, and it would come in as one person saying it. This is something I noticed. I don't know if the Court did. I noted that in the very last paragraph. I heard the word "Espana" which I think is "Spain" or a word similar to that, which was not in the same voice as the voice that was talking in principal there. And I had heard that throughout the tape on several occasions.

And I think on Page 18 or 17--I didn't make the note--but there was another example that came to my naked ear immediately, and I am wondering if anybody else made that same observation.

THE COURT: Let us ask the interpreter, see what she says.

MRS. SALIBA: Did you feel someone else had said that?

THE COURT: Would you like that played over to see whether that is correct? Let us play it back.

(Thereupon the tape was replayed, pursuant to which the following proceedings were had:)

MRS. SALIBA: I don't know whether I would change it. It may mean nothing.

MR. DIAZ: It is a bad word.

THE COURT: You do not know? You are better off.

MRS. SALIBA: I thought after the last trial you would know all these words, because I had to find out then.

THE COURT: It is not necessary. It is

not used in polite society.

MRS. SALIBA: No, it isn't.

MR. GREENSPAHN: The only point is it sounded to me like somebody else said it.

MRS. SALIBA: I agree it was repeated by someone and then it went back to the same speaker.

MR. GREENSPAHN: So we get this happening throughout the course of the transcription. It is not an accurate transcript.

THE COURT: Gentlemen, it seems to devolve down to this question, basically: I have understood the testimony of this lady and I think she is eminently qualified in Spanish and is a capable translator. And based upon her testimony she said that, so far as she has been capable of doing, she translated this thing first stenographically into Spanish and then into English and, so far as she is concerned and as far as she knows, it is a true and accurate translation. She does give, of course, some instances, either in this tape or in other tapes, where words can be used in different senses, and possibly different meanings can be ascribed to them. But so far as I understand her testimony, first of all, she is admittedly with some difficulty capable of

getting from this tape those things which she has put down; that is, the conversations so far as she has put them down. She has indicated where she has not been able to get it. She has been able, apparently, in her mind to identify the speakers--that is, so far as Dr. Bosch and Mr. Morales are concerned. There are other obvious background things in there such as music and a woman talking and other things that she has not put in this translation that had, according to her translation, nothing to do with the conversation that took place between these two individuals. Is that correct?

MRS. SALIBA: Yes. I concerned myself principally with Morales and whoever was speaking to him.

Now, I did indicate that a woman's voice comes in and says, "Papi, ven temprano." I don't know who is calling, but a woman is calling, "Father, come early." It just added a little bit to the sense there, because then Dr. Bosch answers "Si."

THE COURT: So far as you are concerned, have you been able, from listening to that tape, to identify the voices of Dr. Bosch and Mr. Morales?

MRS. SALIBA: This tape, yes, sir. I felt that I could.

THE COURT: Have you been able, from listening to it, to understand and to record, to the extent that you have, the conversation which took place?

MRS. SALIBA: Yes, sir.

THE COURT: Based upon your experience and your training and your knowledge, is that a true and accurate recordation?

MRS. SALIBA: Yes, your Honor.

THE COURT: Gentlemen, I think the burden, Mr. Greenspahn, shifts to you. I will be happy to listen to your interpreter or to anybody else, but that is the basis that I have understood this lady's testimony to have been in the very beginning. And I think at this point it is up to you--but whether it is up to you or not--I am perfectly willing to give you an opportunity to demonstrate any inaccuracies that you say are made in there. And by you, of course, I include your own interpreter, too, because I am perfectly willing to hear from him.

MR. GREENSPAHN: Judge, I have not even talked to the interpreter yet to find out about the

words or the verbal translations. But what concerned me more than anything else are two things:

(1) The inaudible parts of this. I recognize that the Court has asked Mrs. Saliba, who is a very qualified interpreter--and I don't challenge her qualifications in that regard--the Court has asked her if she was able to hear it. The tape has been played for the Court to hear as well as for anybody else standing up here, and I feel, not being conversant with the language, perhaps I am at a handicap, but I feel that the portions of the tape preceding the part where it becomes much clearer are inaudible and cannot be heard.

Secondly--and this is equally important to me--the one instance that I called to the attention of the Court using the obscenity that is referred to in the last paragraph of that tape, indicates to me that there was somebody else who said or repeated that word. That is not in the transcript. The transcript is incorrect in that regard, and I heard at other times during the course of the translation where the voices changed and yet on the narrative transcript of the tape it remained to be

indicated as the person who had initiated that particular segment of the conversation. Those are the problems about which I complain to the Court, not the verbal translation, but who said what, and is the transcript, which is obviously going to be offered by the Government and published before the jury, is this an authentic transcript. I suggest to the Court it is not an accurate transcript.

THE COURT: Well, what you are doing in effect is telling me that I have to pass on the credibility of this lady's testimony, and I cannot do that.

MR. GREENSPAHN: No, sir, I am asking you--

THE COURT: I am not in a position, based upon her testimony that it is accurate so far as those parts which are audible and intelligible, I cannot say that is not true. I cannot follow the entire thing. And frequently I have difficulty distinguishing between the people, but that is due to my lack of facility with the language.

I certainly would not take judicial notice of the fact that nobody else could. Because I

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cannot speak German and that would not mean that I would take judicial notice of the fact that nobody else could speak German.

MR. GREENSPAHN: This point crosses my mind, though: I don't think Mrs. Saliba can testify and I don't think she has testified, really meaningfully that yes, this is Dr. Bosch speaking and this is Mr. Morales speaking.

THE COURT: She has testified to the effect that she has been able to identify the voices and based on that identification, as set out in the written transcript, in effect it is said here, for example, on Page 23 she has identified the first statement "En esta cosa" as being that of Dr. Bosch, and the next one "Bueno" as Mr. Morales, and "ellos lo saben." And then there is "Ellos lo saben" by Dr. Bosch again. She has definitely identified those as being the voices of those speakers. She has said that she has omitted other background voices, et cetera.

MR. GREENSPAHN: I think, Judge, if I could just pursue this for one minute, I think what Mrs. Saliba is doing--and she can correct me if she is

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not the retiring type--if I am wrong, do correct me-- the testimony, I think, that Mrs. Saliba has given is that there are two voices, and I would think that it will be impossible for her, unless she has some special knowledge that I don't have, to identify Dr. Bosch and Mr. Morales because she did not know Mr. Morales at any time before she heard these tapes and had no standard of comparison to ask about his voice.

MRS. SALIBA: If you will look through the transcript there, from time to time you see that they identify each other. For example, on Page 5 Morales identifies Orlando.

MR. GREENSPAHN: That is a different thing altogether, I grant you. But that is not what I am talking about.

MRS. SALIBA: But when people are speaking to each other and one says one thing and one says another thing, I think after you listen to this as much as I have you could distinguish quite accurately that there are two different voices--one is Morales and one is Dr. Bosch.

THE COURT: That is all she can testify

to. Morales is the one who has to lay the foundation for that. He has testified that he was fitted with this recorder; that he had these conversations with Dr. Bosch and with these different people; that he turned it back over to the FBI and that was what it was.

MR. BIERMAN: He also testified, your Honor, that certain things were said by other individuals and these things are in these tapes. And in addition, we can put on independent evidence of people who have heard these voices on tape recordings. In fact, I have heard Dr. Bosch's voice on a tape recording approximately two hundred times, and I can identify his voice on this tape recording under oath. And I have spoken with Morales on the phone innumerable times, and I can identify his voice.

Let me ask this question of Mrs. Saliba so my conscience on this is clear.

On Page 3, Mrs. Saliba, at the time of the obscenity, did you hear a second voice?

MRS. SALIBA: I did not.

MR. BIERMAN: Did you hear it today when we called it to your attention?

MRS. SALIBA: No, I didn't. I heard that as one single conversation. I think the voice was dropped a little bit.

MR. BIERMAN: At that point?

MRS. SALIBA: But I don't think that anyone interrupted. I think it was one continuous speech.

MR. GREENSPAHN: At that point, your Honor, I think unfortunately it becomes the burden of the Court to make a determination of fact as to whether that was the same voice or not, because it is a matter of opinion on the part of the interpreter. But then again I have expressed a contrary opinion as to who was speaking, not as to the language itself. And I am sure that in this room we will probably find other opinions that either agree or disagree with me. So that it falls squarely on the Court, I suppose, to make a final determination in that regard, and I submit that if the Court does find it is a different person or a different voice, then the transcript is not a correct one and it is not true and accurate as a transcript of the conversation between the parties, because it has omitted that which has been heard on the

recording.

MR. BIERMAN: Your Honor, Mr. Greenspahn's continual blanket attack on the transcript is fine for polemics, but when these points are found, if they are in fact different and if the Court makes that determination and if that point is not accurate, that change can be made in the transcript. But any single inaccuracy does not make the transcript invalid, and I would suggest we are not going to pass these transcripts to the jury, but because of the omissions they will have to be read to the jury, preferably by Mrs. Saliba who made the translation as to what they say. So if there is a certain specific change and the Court agrees with Mr. Greenspahn that it can be read to the jury or the dispute can be presented to the jury to listen to, but to say that the inaccuracies invalidate the whole tape is just not the law.

MR. GREENSPAHN: Judge, this is what bothers me. I don't think that it is a matter of testimony, corroborative or otherwise, as to whether certain portions of this were inaudible. I thought we were playing the tapes for the Court. I think that the ultimate decision is the Court's decision. You

have really heard the evidence. You know whether it is audible or not from your own perception, just as I have an opinion based on whether it is or isn't on the tape. It is my own opinion. The fact that there is nothing contradicting Mrs. Saliba on what she felt was audible I don't think is enough in this sense. I think that the Court should make that determination. The Court may agree with her. I don't know.

THE COURT: Well, of course, it is not the best tape recording in the world and you would not be able to sell it for a cartridge, but it is audible enough for a person who gives it careful study to certainly understand and interpret the major portion of it. At this point I am not in a position to say whether it is correctly interpreted or not. But I think it is audible enough in at least a greater portion of it for a person who is fluent in Spanish to be able to hear it and understand it and interpret it. And I will so rule.

MR. GREENSPAHN: Your Honor, when the tape is played and the identification is made, can Mrs. Saliba be instructed that when she identifies them, she will identify them only as voices purportedly

to be those of those individuals rather than making a positive identification of the voice, which might put an inference in the jury's mind that she knows the voice is then identified as these parties, because this, too, is in issue.

MR. BIERMAN: Let me ask her a question for the record:

Do you know the voice of Mr. Morales?

MRS. SALIBA: Yes, I do. I have spoken with Mr. Morales.

MR. BIERMAN: Do you know the voice of Dr. Bosch?

MRS. SALIBA: Yes, I do. I heard Dr. Bosch speak. I have listened to some of these recordings and also I heard him on broadcasts on the radio as recently as October 6th when he was interviewed, and I think I have recognized his voice and that I could distinguish his voice from Mr. Morales' voice.

THE COURT: Gentlemen, I am going to rule that, basically, the tape is admissible. Any questions with respect to inaccuracies or interpretations or identifications, so far as I am concerned,

is a matter of cross examination of this witness.

MR. BIERMAN: All right. Shall we then proceed to the question of relevancy and determine those? I see no need, personally, to play the entire tape to the jury, except to get a feel for the tape. If Mr. Greenspahn wants it all played, we have no objection.

THE COURT: If Mr. Greenspahn wants it, we will play it.

Do you want them all played, Mr. Greenspahn?

MR. GREENSPAHN: I think so, your Honor. I think the jury should have a right to hear and determine, I guess, whether this is audible enough to make these decisions.

THE COURT: I think that is exactly right.

MR. BIERMAN: That is agreeable with me.

THE COURT: This hearing is only for the purpose, so far as I am concerned, of passing upon the admissibility of it as a matter of law. It should be submitted to the jury and the jury has a perfect right at that point to determine whether this

lady could hear it, whether she could interpret it or whether she could speak Spanish at all. And you have a perfect right, if you contest that, to ask her any questions you want to on cross examination. And if you wish, you can put your man on, and if there is any difference or any dispute that he has with respect to the interpretation, you can have him testify, and the Government can cross examine him as to his qualifications and the correctness of it. And, so far as I am concerned, it is then a question for the jury to decide. The jury may well decide that none of it is audible as far as they are concerned and that they do not believe any of it.

But that is not my question. My question is to determine in the first instance whether or not the machine which was used was a machine which was capable of recording and preserving the conversation. And upon what I have heard, I so rule.

Among other things, the question has come up whether or not it was capable, insofar as being audible or being heard or understood and translated, and I have ruled that the greater portion of it was.

The next question as to the ability of this lady to understand Spanish and to transcribe what was said, I have ruled that she is so qualified.

So far as the accuracy of it is concerned, she has testified that, to the best of her knowledge, training and ability, her transcription and translation of it is accurate. And I will accept her testimony for the purpose of this particular preliminary hearing.

I want to say one other thing. So far as the identity is concerned of the purported speakers, that, of course, is another material question. She has testified that she is familiar with the voices of both speakers and that she is able to identify them and that she has so identified them. And I will accept her testimony to that extent.

Does the defense raise any questions or objections so that we can get it straightened out on this preliminary hearing as to whether there has been any alteration, change, erasures or anything of that nature made with respect to these tapes?

MR. GREENSPAHN: Your Honor, I have no reasonable basis for such a suggestion to the Court.

THE COURT: Well, I wanted to know because if there has been any such contention, I want both sides to present the question to me so that I can pass on it.

So far as it being authentic and correct, at this point at least, Mr. Morales has testified that it was; that he took those recordings himself, operated the machine and recorded the alleged conversation. And in the absence of any contention that they have been altered or erased or changed, I will accept that testimony for the purpose of the admissibility of the tapes.

If counsel desires, we will play the other tapes, but basically I am holding now that, with respect to cartridge No. 1, it is admissible and, in the absence of some showing to the contrary, the same ruling will apply to No. 2, No. 3 and No. 4.

MR. BIERMAN: Your Honor, with respect to the method of examining Mrs. Saliba for the translations, I would suggest that the Government proceed and ask what might be somewhat leading questions dealing with the translation, and then in addition, anything that Mr. Greenspahn feels is

relevant, he may ask on cross examination. I realize these questions would be somewhat leading in a sense, but I think this would be the most practical manner of doing it.

In other words, I would ask her to translate what appears on Page 3 of her transcript, let's say, or whatever page it was, and if there was anything additional Mr. Greenspahn wants to ask her, he could ask her about it on cross examination.

MR. GREENSPAHN: I would have no objection to that.

THE COURT: That is perfectly all right.

MR. GREENSPAHN: I would like to know, with reference to the other three tapes from the Government, what portions they are voluntarily willing to delete.

THE COURT: All right, sir. Let us get to that.

MR. BIERMAN: Referring to the second reel, all of Page 4 would be in, all of Page--on Page 5, up to the end of the first incomplete paragraph would be in.

THE COURT: What do you mean the first

incompleted paragraph? That part would be in. What do you mean "the first incompleted paragraph"?

MR. BIERMAN: The one ending in "It twists his (1)."

THE COURT: You are talking about the first paragraph on Page 5?

MR. BIERMAN: Will be in, yes, sir, and the next G, M, G, M and G would be omitted. The bottom paragraph at the end would be in, all of Page 6 would be in, all of Page 7, all of Page 8, all of Page 9 would be in, all of Page 10 would be in, Page 11 would be in. On Page 12, the first G would be in, and the remaining part of the page would be out. Page 13 would be out, Page 14 would be out up to the point where it reads "You know that the people of the ESA came down from up there."

And then beginning with "Yes, they are here. Did you give me the clipping of the editorial?" That would be in. And up to Page 15 where it reads "Five or six is very few. I went alone. They allowed me to go." That would be in. The next four paragraphs would be out. And Page 16 would be in.

THE COURT: All right, sir. What is the

next one?

MR. BIERMAN: The first page would be in. We would agree to omit all of Miss Miranda's references to the other people, if counsel would agree that the Court could instruct the jury that they were in there but that the details are irrelevant. This is for corroborative purposes. We do not feel it is necessary for her opinion of her fellow workers to be published, but we do feel it is necessary for corroboration.

THE COURT: Where are you reading from now?

MR. BIERMAN: Page 5 and 6.

THE COURT: Oh. I'm not on Page 4 yet.

MR. BIERMAN: All of Page 4 will go in, up until, on Page 5, the first completed paragraph, stopping at "Sifredo must be scared."

THE COURT: All right.

MR. BIERMAN: Thereafter, I am suggesting that Miss Miranda makes numerous comments about her co-workers, and Mr. Morales testified to that. That is in corroboration of what she said. We would not go into her personal feelings, if counsel

would agree.

MR. GREENSPAHN: You are talking about the rest of Page 5? And Page 6?

MR. BIERMAN: Yes.

MR. GREENSPAHN: And Page 7?

MR. BIERMAN: Page 7, 8 and 9 have some personal things. Page 10, Page 11--up to Page 11.

THE COURT: Is that to or through?

MR. BIERMAN: Up to. It is to and including Page 11.

THE COURT: All right.

MR. BIERMAN: Do you agree to that?

MR. GREENSPAHN: Yes.

MR. BIERMAN: On Page 12, beginning with the "M" where it says "You know that was some party."

THE COURT: Wait just a second. Let me get these now. All right, sir.

MR. BIERMAN: On Page 12, beginning with "You know that was some party."

MR. GREENSPAHN: Judge, while we are looking at Page 12, the name "Bombillo" is mentioned.

MR. BIERMAN: We previously interpreted "Bombillo" for the jury but we will be glad to do it again.

THE COURT: I think that would be proper, because it could be that somebody on the jury could think that the connotation or get the impression that it was something about a bomb. I think that would be the proper thing to do.

MR. BIERMAN: The remainder of 12 and all of 13, and 14 we would want in, 15 in, 16 in up to and including the second from the bottom paragraph. That part beginning with "Aimee, you know I have never gotten along with him" and to the end would be out. And all the way down on Page 17, the first two paragraphs would be out and that portion which reads "Aimee, what is your opinion of all this". . .that would be in.

All of 18 would be in, all of 19 would be in, all of 20 would be in, all of 21 up to "For heaven's sake, Aimee, I know that." We will have all of Page 21.

THE COURT: You want Page 21 out?

MR. BIERMAN: In. Page 22 is in, Page

23 is out, Page 24 is out, the first paragraph on Page 25 is out and the rest of Page 25 is in.

THE COURT: All right. Let us go to the next one.

MR. BIERMAN: Page 5 is out, Page 6 is out and on Page 7, in the middle of the paragraph, beginning with the fourth line down after the inaudible "Even the businessmen began to realize that there were two powers. . ." That will go in. And going down to the bottom of the page where it says "I hope so." And then the last paragraph is out.

Going over to Page 8 after "In Cuba" and beginning with "G: In Cuba, the CIA" the rest of the page. Page 9 is in, and on Page 10, up to and including "Bombillo, give me a light" but not including that.

THE COURT: All right.

MR. BIERMAN: No. I'm sorry. The whole page is in. Page 11 is in, Page 12. Page 13 is in and on Page 14, where it reads "They are going to my business. When I arrived the other day, I had strong, strong" that goes out. And the remainder of the page.

Page 15, beginning right at the top of

the page, "We have all the young pigeons behind us" up until Page 16 where it says "three hours? In three hours you can leave Cuba and arrive in Key West."

Where it starts with "I cannot stand these meetings" that goes out to the end of the page. Page 17 is out, Page 18 is out, Page 19 is out. Page 20 is in, Page 21 is in.

Page 22, other than "Also going around" is out, but "What is needed is money for moving about" and the rest of that page is in.

Page 23 is out, Page 24 is out, Page 25 is out, Page 26 is out, Page 27 is out, Page 28 is out, Page 29, 30 is out.

THE COURT: Now let us ask Mr. Greenspahn if there is anything which the Government has said that it does not want to put in now that you want to put in.

MR. GREENSPAHN: Yes, sir. A good deal.

THE COURT: All right. Let us find out what you want.

MR. BIERMAN: Your Honor, I thought we had agreed that upon cross examination he could ask

what was there. I think that might be an easier method. We will not object to anything that they want to put in.

THE COURT: All right. That is the situation. He said that anything you want to put in you can put in. And you can do it without any objection by the Government.

MR. BIERMAN: With one reservation: that if a portion comes in, we may want to complete that portion on redirect.

THE COURT: That is perfectly all right. If it has any connection or relation to it, why, you can add to it. You cannot repeat what you have already put in.

MR. GREENSPAHN: Or if it becomes generally irrelevant for consideration of the Court as to any objections that I might have as to those portions the Government announced it was going to put in. I don't know if the Court wants to do it now. I feel some of these things are out in left field and have no real purpose in this case except to prejudice the jury.

THE COURT: All right, sir. We will

start at the beginning.

Let's start with tape No. 1.

MR. GREENSPAHN: Page 4, sir. I don't see what that has to do with the matter at hand. It is talking about somebody who is not a party, that nobody ever heard of before.

MR. BIERMAN: It is true, except that this introduces the next page.

THE COURT: I think that is true. I think it is relevant to the extent that whatever that conversation is about the recoilless rifle might be relevant. I will overrule the objection to that.

MR. GREENSPAHN: All of Page 6-- actually, the last two paragraphs of Page 5 and then all of Page 6 is by Morales. There doesn't seem to be any answer. It is just a lot of words which, I suppose, is repetitious of what he said yesterday.

THE COURT: Well, I think what you say is probably true down to where it says "Laughs." I think it becomes material from that point on.

MR. BIERMAN: We can omit that.

THE COURT: I will grant the motion to eliminate that part of it.

MR. GREENSPAHN: Then where it says "A man has just arrived from Santo Domingo," that doesn't say much, and then this last sentence--I think the Court can see where I could be concerned about that sentence, the last sentence on Page 6, which doesn't add anything to this. It is inflammatory.

MR. BIERMAN: It certainly does add to it. It corroborates what Morales says, and it relates to his knowledge of Poland and the shelling of the Polish vessel.

MR. GREENSPAHN: Then again, everybody in Miami who read the newspapers that morning had an opinion on the thing. I have not been asked my opinion; so I will not give it. Everybody in Miami knew about this at the time.

MR. BIERMAN: Morales testified that Bosch told him that. This is corroborative. That is one of the purposes of the tape, is corroboration.

MR. GREENSPAHN: Your Honor, I never heard the word "pervert" being used. I think that may have another meaning in Spanish.

THE COURT: Well, I am going to grant the motion, because to me it is not really intelligible

and it does not connect up. If there was a complete sentence before that--but you pick up with half a sentence and then you pick up with another half of a sentence--

MR. BIERMAN: But they were right behind that, your Honor, discussing why it didn't hit the bridge or boat.

THE COURT: I realize that. I have left in, "Listen, you know why it didn't hit the bridge?

"Why?

"When you fire from land, et cetera."
I have left that in.

Then I have granted the motion for "A man has just arrived from Santo Domingo" and "The way these perverts, et cetera" because I don't think they are complete enough or intelligible enough to permit them to stay in. So I am granting that motion.

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MR. BIERMAN: Of course, we could change the translation to "maricones" which means "queers" from the word "perverts."

MR. GREENSPAHN: What is the difference?

MR. BIERMAN: All right. I will withdraw

it.

MR. GREENSPAHN: Then, your Honor, I don't quite understand the relevancy on Page 7 of the last two paragraphs, this business about "Carol was there." Carol is not a party. I don't even know who Carol is. That is another name out of the blue.

MR. BIERMAN: We will be willing to omit that.

THE COURT: Okay.

MR. BIERMAN: No. I take that back, your Honor. Right above it we have had testimony or will about the Spanish boat COROMOTO, and we have had statements about it being in Puerto Rico and about someone else going down there--Tony Prieto going down there--and this shows Dr. Bosch's knowledge of what went on in Puerto Rico.

MR. GREENSPAHN: Well, if this says Tony Prieto was there, that is one thing. This thing does not say Tony Prieto.

I do not think it is proper, Judge.

THE COURT: Well, I am going to overrule the objection because of the fact that apparently, according to this transcript, Dr. Bosch was the one who

interjected the name, and it does have some connection with Puerto Rico and the situation there. So I will overrule your objection with respect to that. Now we are on Page 8, gentlemen. Page 8 is in, according to the Government.

MR. GREENSPAHN: I do not think it is relevant or material as to the first paragraph. There is no identification about who was talking or who he is talking about when he says "These people are going to kill me," but I really don't care about that. It is not that important.

I think I can anticipate the Court's ruling as far as the rest of Page 8. I don't see where Morales' statement in the middle of the page is relevant. And I question it because it is not sufficiently stated with definitiveness as to whether the last statement on the page is of any real value.

MR. BIERMAN: If not, there is no sense in us playing the tape.

THE COURT: I feel this way, frankly: I think that point you have objected to in the first paragraph is probably as favorable to the defendant as it is to the Government. If you want it, I will grant

your motion, but I will let you think about it.

MR. GREENSPAHN: I will withdraw it, Judge, because I had it marked previously.

THE COURT: Then I will overrule your motion as to the other portion of the page. Page 9 is out. We are now down to the last two paragraphs on Page 10.

MR. GREENSPAHN: Those are all right.

THE COURT: Now we are in the middle of 11.

MR. GREENSPAHN: 11 is all right.

Judge, I do, with particular reference on Page 11, object to the last sentence, the reference to the cannon blast. There is conversation in here about things passed that are probably unrelated to this, and this cannon blast statement will be prejudicial. It is not tied up in my mind or linked to any of the instant proceedings. So I would like that sentence stricken out of the transcript.

MR. BIERMAN: We would suggest, your Honor, that this tape has discussion of the POLANICA and a recoilless rifle is quite often called a cannon, and this can be argued to the jury that this is not it,

but--

THE COURT: I am going to overrule the objection. I think it is susceptible to either interpretation.

13 is out, 14 is out, and starting at Page 15, the first paragraph is out. We have the same situation there. Do you want to make the same objection?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right, sir. I'll make the same ruling.

MR. GREENSPAHN: Page 22, this one small portion that--

MR. BIERMAN: No complaint about 16?

THE COURT: 16 is in except for the last part of it.

MR. GREENSPAHN: I have no complaint with 16.

THE COURT: All right, sir. Then we will go to 22.

MR. GREENSPAHN: The two paragraphs that are in are really out of context if read in this thing and have no significant meaning. Of course, I

shudder when I hear the word "blackmailer" used.

MR. BIERMAN: We were not including the blackmailer.

THE COURT: Not that. What the Government says they want is "Well, I will give you a call in two or three days, Orlando, because you are tied up and all that."

MR. GREENSPAHN: Then I will withdraw my objection.

THE COURT: That other part is out.

MR. GREENSPAHN: This is the part, of course, that I objected to before, about the fact that it is not properly transcribed; that, to my hearing, there were two voices in the last paragraph on Page 23. So I would reiterate that, your Honor. I feel that to properly have the meaning, if any meaning there be, attributed to the last paragraph on Page 23, the testimony should commence at the top of the page and then the entire page should be read in.

THE COURT: All right. What do you say?

MR. BIERMAN: I have no objection.

THE COURT: I think the whole thing

should be in. I agree with Mr. Greenspahn.

Let us go to the next one.

MR. GREENSPAHN: Your Honor, if I read it correctly, Page 4 and continuing on to Page 5, I think it is so vague and indefinite that the jury is not capable of a true understanding of it. These people are talking about some particular incident of which these people do not have any personal knowledge. They talk about a Chavo.

THE COURT: Well, I am going to leave it in. Personally, I think it is helpful to the defendant. I do not think it is enough to be of any benefit to the Government and I think the defendants can make more of it than the Government can. So I am going to leave it in.

MR. GREENSPAHN: One thing that concerns me about the continuing testimony on Page 5 and 6 is that again Morales is doing all of the talking. I don't know that this is particularly helpful to the defendants. I think if it is read as it is here, Judge, the lack of response or the lack of clear response to any of the questions that Morales asked will not detract from the fact that Morales has restated many

of these things that are left by the Government without any real corroboration on this portion of the tape. It seems like Morales is telling the story over and there is not any commitment made by the person to whom he is speaking.

THE COURT: What do you say, sir?

MR. BIERMAN: It sets the area which they are discussing. We would have no strong feeling about that.

THE COURT: Well, I am going to knock all of that out down to Page 6 where it starts "Prieto." I think that is material, but the other part of it I don't think is. I am going to grant the motion to leave it out.

MR. GREENSPAHN: The same is applicable on Page 8, your Honor. At Paragraph No. 3, "And the aim that was taken." That is a gratuitous statement by Morales and there is no response to it.

THE COURT: I will grant your motion. I will leave it out.

MR. MORRIS: The first two paragraphs are in, your Honor?

THE COURT: I will leave the first two paragraphs in.

MR. GREENSPAHN: My general objection to the next portion on Page 8 and Page 9, the date of the event they are talking about is never recited, and it doesn't really connect up with anything other than an event which they are discussing. That general objection is made to Page 8, Page 9 and Page 10.

MR. MORRIS: I think this conversation ties in closely with Morales' testimony about discussions of what took place on the causeway.

THE COURT: I think it connects up with the entire thing, particularly getting along about Page 10. I will deny the motion with respect to that.

MR. GREENSPAHN: Then on Page 14, I don't see the relevancy of that.

THE COURT: Well, half of 14 is out. What do you say about the bottom part of 14?

MR. BIERMAN: This was testified to, your Honor, by Mr. Morales, that he gave him a newspaper clipping on this day and it related to the activities of the Cubans in the area and Bosch discussed it with him, and it is corroborative of that.

MR. GREENSPAHN: Corroborating evidence should corroborate material points. That is not

material. I will stipulate with you he probably did give him a newspaper clipping.

THE COURT: Well, I will overrule the objection. For whatever value it may have, I will let it in.

MR. GREENSPAHN: At the bottom of Page 15 and 16, I really don't see what purpose this serves. I don't see how it is material or relevant to this case.

THE COURT: What about that?

MR. BIERMAN: This relates to the newspaper article, your Honor, which was writing the editorials and his knowledge of it.

THE COURT: I am going to leave it out. I am going to grant the motion and leave it out.

MR. GREENSPAHN: And finally, objection to Page 4, the first portion of Page 5, and then continuing on to Page 12. The portion on Page 12 is not deleted by the Government. The objection is that the events that are being described are not described by time, date, place or the event itself. It is merely reference to an event. It is possible that could be referring to something other than what the

Government intended to be referring to.

THE COURT: I am going to overrule the objection to that. I think it connects up with and corroborates the testimony of Mr. Morales. I think it can be related to events that he has identified.

And I would like to omit on Page 14, after eight lines from the bottom, starting with "Babi." I don't see where that serves any purpose.

THE COURT: "This Babi is crazy, abnormal, and so forth."

MR. BIERMAN: That would go under the same stipulation as before. They are the opinions of friends or people named here.

THE COURT: All right, sir.

MR. GREENSPAHN: Going to Page 17, this opinion expressed by Aimee Miranda is a speculative question that has no materialty or relevancy to this proceeding.

"What is your opinion of all this? What do you think will be the outcome of all this? Everybody in jail?" And then the answer that is given.

MR. MORRIS: I think it suggests her knowledge and part in the conspiracy.

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MR. GREENSPAHN: I don't see how that could suggest anything. He just asked a question and she gave an answer. That does not relate to anything.

MR. MORRIS: It is in connection with Morales' testimony.

MR. GREENSPAHN: Conspiracy in what? Maybe these people in her mind were engaged in other activities that aren't even before this Court.

MR. MORRIS: That is possible. We have not had testimony or anything about that.

MR. GREENSPAHN: And my particular objection is to the two paragraphs at the bottom of Page 17 through the first two paragraphs or the first paragraph of Page 18.

MR. MORRIS: They have been talking throughout about the POLANICA incident and what has been said by the various defendants about that.

MR. GREENSPAHN: I have not seen a word about the POLANICA in the entire transcript.

MR. MORRIS: I do not think they mentioned it by name.

THE COURT: Gentlemen, I do not think it has a great deal of materiality. I am going to

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grant the motion and leave it out.

MR. GREENSPAHN: Now, with reference to Page 25, your Honor, the small portion of it is left in. The first two sentences "No, no, but that is beginning now. That is beginning now." and "They are hiding the news." That says nothing that relates to or ties into this case.

MR. MORRIS: It mentions the MIKAGESAN, your Honor.

MR. GREENSPAHN: But it does not say anything about their involvement with the MIKAGESAN.

MR. MORRIS: It discusses explosions.

MR. GREENSPAHN: Of course, Morales says that. Aimee Miranda does not say that.

MR. MORRIS: She says that there have been many which have not exploded. We have had testimony that Bosch complained his bombs were not going off. We will have further evidence that there was a bomb which did not go off.

THE COURT: What about the last two?

MR. MORRIS: The last two paragraphs are out, according to my copy.

THE COURT: And they are out on mine

now. I will overrule the objection with respect to that portion.

Now we go to Tape 4.

MR. GREENSPAHN: Your Honor, on Page 7, I don't have any great objection to what is in here. The only thing that bothers me is that I think something should precede it. It is wholly out of context. We are using the word "blackmailers" and it has no reference in this instance to any of these defendants, but the way it reads it looks like it does.

MR. BIERMAN: This is advantageous to the defendants. We only left it in because we did not think it was fair to take it out. We will be glad to take it all out.

MR. GREENSPAHN: That is what I say. I have no objection to the paragraph, but I think there should be something preceding it so that it comes in the right context. This is why I would think that perhaps starting with--well, I would think even just the five words that precede the portion that they have stipulated can go in--"Then everybody began to react. Even the businessmen began to realize. . ." That would be all right.

MR. MORRIS: We have no objection to the omission of any of it, your Honor.

THE COURT: All right, sir. Do it that way.

MR. GREENSPAHN: The Government and I have agreed within the last few minutes that Mrs. Saliba can refer to the obscenities with the word "obscenity," not with the particular verbalized obscenity used.

THE COURT: All right, sir.

Mr. Greenspahn, I just checked with the Marshal. He says he has lunch for the prisoners. We may not be able to get lunch. But are you willing to waive their presence for the rest of this hearing?

MR. GREENSPAHN: Yes, sir. We will waive their presence.

THE COURT: All right.

MR. GREENSPAHN: Referring to Page 11, this business about the Cuban people in Miami paralyzing Miami industry--that came out during the course of Morales' testimony. Frankly, at the time it came out I didn't think much of it, and then I saw it in five-point headlines when I saw it when I walked out of here.

This is the kind of thing that can be extremely influential and prejudicial as to the defendants. There has been no strike; there has been no paralysis. There has been nothing. Something has merely been taken out of context and blown up by the press. Our jurors are not sequestered and I am sure they will walk out on the street and see the headlines just as well as we do, and I do not think this is of assistance to the Government in its prosecution. Therefore, I would ask the Court to take from the portion on Page 11 the first paragraph, the part commencing from approximately nine lines from the top of that--or from the bottom of that first page on Page 11, commencing, "Why do you think that we are in existence?" to the end of the paragraph.

MR. BIERMAN: We feel that is relevant for two reasons:

(1) It is part of a continuing conspiracy and

(2) If they were not involved with anything at all, they would not be worried about the arrest.

THE COURT: Gentlemen, I am going to

deny the motion. Mr. Morales has testified substantially to that already. I am going to deny the motion.

MR. GREENSPAHN: We object to Page 13 on the basis of relevancy and materiality. I don't see how it links into this case.

MR. BIERMAN: We have no strong feeling on it, your Honor.

THE COURT: All right, sir. In that case Page 13 is out.

MR. GREENSPAHN: And all of Page 14.

THE COURT: That is out.

MR. GREENSPAHN: All of this business on Page 15 starting with the second paragraph where Morales starts with "Bombillo, that little apparatus," I didn't understand it when I read it, and I don't see what connection this has to this case. At least it hasn't any connection with the evidence thus far about some man throwing away three thousand pounds of oxygen tanks.

MR. BIERMAN: This relates to the re-breather.

THE COURT: That is what he is talking

about.

MR. BIERMAN: The only thing inoperative about it was the oxygen. There was extensive cross examination on that.

THE COURT: That is what he was talking about, as I gather it.

MR. GREENSPAHN: Just about everything else is out of this.

THE COURT: I will deny your motion with respect to that, and then we get down to Page 20, I think?

MR. BIERMAN: Yes, sir.

MR. GREENSPAHN: I would like to object to it, but I can't think of any reasonable basis for it. So we will leave it at that.

THE COURT: Well, I will deny your motion with respect to it.

MR. BIERMAN: And down on Page 22, about the frogmen falling in the water, we may have to use some nice words for the obscenities in there because there are so many of them.

THE COURT: Well, that is up to you.

MR. GREENSPAHN: Those are all the objections.

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THE COURT: All right, gentlemen.

MR. BIERMAN: Your Honor, could we request the Court what we propose to do, although we have been through the tapes this morning, would be to put on certain live out-of-town witnesses first?

MR. GREENSPAHN: If they are relatively short witnesses, we have no objection.

THE COURT: That is all right with me. You can control the order of your case as long as it is reasonable.

MR. BIERMAN: And we would offer some documents at this time and then whatever recess your Honor wants to take, unless you want to take a recess first.

THE COURT: Well, I will not take a recess right now. I want to get a sandwich for my lunch right now, because I want to get a sandwich in my office that I can eat in ten minutes, to be sure it is there when I get there because that is about all the time I am going to give you. I am going to take a recess for about five minutes, give each one of you the opportunity to order a sandwich, and then I am going to sit for about an hour, and I am going to recess

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for about fifteen minutes and we are going to eat lunch and start back again. That is going to be the order of procedure.

Court will be in recess for five minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: You may proceed.

MR. BIERMAN: Your Honor, we have certain records which we would offer pursuant to Rule 44 of the Federal Rules of Criminal Procedure. These are the registrations and copies thereof of the vessels in question, including the POLANICA, the Polish vessel.

THE COURT: Let counsel see them and then you can hand them up to me.

MR. Clerk, you can be making out the exhibit tickets and we can save a little time.

MR. BIERMAN: And on the ASAKA MARU and the MIKAGESAN MARU, the CARIBBEAN VENTURE, the LANCASTRIAN PRINCE and the GRANWOOD. Each is affixed with the seal of the Consul of the United States

recognizing that the signature of the official of the country in question is that official and is empowered to make such signature.

MR. GREENSPAHN: Your Honor, with counsel's permission, Rule 44, under which these are purportedly being offered at this time, says if reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the document, it may for good cause shown be admitted as an attested copy.

MR. BIERMAN: Well, these have the final certification on them before the argument starts on it.

MR. GREENSPAHN: The point is that I have just been handed these. They look like they are probably legitimate instruments. I cannot say that they are not. I do not know.

THE COURT: Do you have any other objections to them?

MR. GREENSPAHN: I can't read some of them because I do not know what they are.

MR. MORRIS: They are translations there, I believe.

MR. GREENSPAHN: No, there is not a translation that I can see. This seems to be in a language that is completely foreign to me. So I do not know what it says.

This is written in English, but I do not understand it.

I think, without going any further, apparently this is the registry of one of the Japanese ships. There is attached to it what purports to be a translation. Frankly, I have no way of challenging the translation. I do not know what these scribblings are. And this seems to be true of the others except for those that are in English. There are some that are in English.

THE COURT: I am going to note an objection for the defendants and I am going to overrule the objection and I am going to admit the documents into evidence with the opportunity, before they are presented to the jury, for counsel to make any such examination as he wishes as to their authenticity; and further to obtain any translations of any parts of it that are to be presented to the jury.

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MR. GREENSPAHN: Thank you, sir.

THE COURT: That ruling is without prejudice to your right to renew your objection at that time.

Let the Clerk mark them and then I will, as an officer of the Court, permit you to have them in your possession for the purpose of checking their authenticity. And you may have my permission to take them out of the courtroom if you desire.

Is there anything else?

MR. BIERMAN: We are prepared to proceed.

THE COURT: All right, sir.

Mr. Marshal, will you bring the jury in, please?

(Thereupon the jury resumed their seats in the jury box, pursuant to which the following proceedings were had:)

THE COURT: Good afternoon, ladies and gentlemen. I am sorry I am such a bad judge of time and made you sit around, but you can blame me. But I really could not help it.

Is the Government ready to proceed?

MR. BIERMAN: We are.

THE COURT: You may proceed.

THEREUPON--

MARVIN M. EUBANKS,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: I am Marvin M. Eubanks.
I am a Special Agent of the Federal Bureau of
Investigation, assigned to the Birmingham office.

DIRECT EXAMINATION

BY MR. MORRIS:

Q How long have you been so employed,
Mr. Eubanks?

A Eighteen years.

Q Mr. Eubanks, during the month of June,
1968, were you on duty with the FBI?

A Yes, sir, I was.

Q Are you acquainted with a Mr. Hendon?

A Yes, sir.

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Eubanks - direct

Q Did you see Mr. Hendon during that month?

A Yes, sir, I did.

Q Would you relate approximately when that occurred and what happened?

A Yes. On June 25, 1968, I contacted Mr. Fred Hendon, who is a plant manager at the duPont Powder Plant at Watson, Alabama, and it was in regard to two boxes of simulated dynamite that he had prepared for the Birmingham office of the FBI.

Q Did you receive anything from him?

A Yes, sir. On that date I received two boxes of dynamite which each weighed approximately 50 pounds.

THE COURT: Dynamite or simulated dynamite?

THE WITNESS: Simulated dynamite.

THE COURT: There is a little difference.

THE WITNESS: Yes, sir.

BY MR. MORRIS:

Q Mr. Eubanks, I show you a box and ask

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Eubanks - direct

you whether the boxes which you received were anything similar to this.

A Yes, sir. It had a similar appearance to this, yes, sir. It had a similar appearance, yes.

Q This is Government's Exhibit No. 19. What did you do with those boxes after you received them?

A I took the two boxes back to the Birmingham office of the FBI where they were wrapped together, addressed to the Special Agent in Charge, Miami FBI Office; and also there was a Government bill of lading prepared in regard to that shipment. On June 25 was when I took them back to the office, and that was when they were wrapped together, packaged together for shipment. On that day I also telephonically contacted Ryder Truck Lines in Birmingham, Alabama, and made arrangements for that shipment to be picked up the next day--June 26, 1968.

Q Was it picked up, sir?

A It was picked up on the afternoon of June 26th.

Q Was that in your presence or not?

Eubanks - direct

A It was in my presence, yes, sir.

Q You mentioned a bill of lading. Do you have a copy of that?

A Yes, sir, I have a copy.

Q May I see it, please?

A (Producing document)

Q Where did you obtain this, sir?

A From the Birmingham FBI Office.

Q Did you make any comparison between this copy and the original bill of lading which was on the package?

A Yes, sir. That is a duplicate of the original.

MR. MORRIS: Will you mark this for identification?

(Thereupon the instrument referred to was marked as Government's Exhibit No. 37 for identification.)

MR. MORRIS: I offer it in evidence.

MR. GREENSPAHN: Note my objection, please.

Eubanks - direct

MR. MORRIS: I beg your pardon? I thought you said no objection.

MR. GREENSPAHN: I said I was going to object to it.

THE COURT: The bill of lading being attached to the parcel sent to the FBI office in Miami, the original would be or should be in the possession of the FBI here and this, of course, is a copy, not the original.

MR. MORRIS: That could be presented at a later time. This is to show a copy of what went out of Birmingham.

MR. GREENSPAHN: If it can be presented at a later time, I should think it could be presented now, too.

MR. MORRIS: Not by this witness.

THE COURT: I will admit it solely for the purpose as indicated by counsel as indicating a shipment by this witness of that package from Birmingham and for no other purpose.

MR. MORRIS: That is the purpose we want, your Honor.

Eubanks - cross

THE COURT: All right, sir.

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did anyone else from your office have any dealings with the duPont Company other than yourself?

A In regard to this shipment?

Q Yes, sir.

A Yes, sir.

Q Who else was involved?

A Special Agent Coleman Geary.

Q Were there any other subsequent shipments made that you participated in?

A No, sir.

Q Referring to the contents of the package that you referred to that were wrapped by the FBI in Birmingham, in what manner were they wrapped?

A The packages were the two packages similar to the box or package that were wrapped together, and then they were wrapped in a cardboard or brown wrapping paper and then labeled.

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Eubanks - cross

Q You indicated a box that you say was similar to this box (Exhibit 19)?

A Right.

Q Did you look inside the box?

A No, sir.

Q Of your own personal knowledge do you know what was inside either of the two boxes at the time that they were shipped other than that which had been told to you by someone else?

A No, sir.

MR. GREENSPAHN: Thank you. I have nothing else.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Eubanks, can you estimate the approximate weight of the boxes?

A Approximately 50 pounds each. Yes, sir.

MR. MORRIS: No further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

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THE COURT: Call your next witness,
please.

THEREUPON--

COLEMAN GEARY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Coleman D. Geary III,
Special Agent, Federal Bureau of Investigation, 1603
Mongaup Circle, Birmingham.

DIRECT EXAMINATION

BY MR. MORRIS:

Q How long have you been so employed,
Mr. Geary?

A Sixteen years.

Q Mr. Geary, are you acquainted with a
man named Hendon?

A Yes, sir.

Q Did you have occasion to see Mr. Hendon
during the month of June of this year?

A Would you describe the circumstances
and the date on which this meeting took place?

Geary - direct

A I first saw and talked with Mr. Hendon on or about the middle of June, somewhere about the 17th, in connection with determining--

Q Where was that?

A That was at the E. I. duPont Plant at Watson, Alabama. I requested him to prepare some simulated dynamite, which he said he would. Then again, Mr. Eubanks previously mentioned that he came by and picked up--

Q Do not tell us about what Mr. Eubanks said, but go ahead with your own contact with Mr. Hendon.

A He agreed that the duPont--

MR. GREENSPAHN: If it please the Court, I would have a continuing objection to the hearsay as to these defendants.

THE COURT: I will sustain the objection.

BY MR. MORRIS:

Q Just tell us what you saw and did, sir.

A Okay. On July 26th I went out to the duPont plant and picked up four 50-pound packages which

Geary - direct

contained the simulated dynamite which had been prepared by Mr. Hendon and returned to the FBI office with the four packages which were labeled "50 pounds Red Cross Extra Dynamite, 2 x 24 inch sticks, Dangerous and duPont Explosive." Each box also contained the red letter "D" and these boxes were dated July 22, 1968.

Q I show you Government's Exhibit No. 19 and ask you whether this is similar to the boxes that you are describing.

A I would like to look at it, yes, sir. Yes, sir. This is the similar box which Mr. Hendon gave to me on October 22, 1968.

Q What date, sir?

A October 22, 1968. And I initialed this on that date.

Q I'm sorry. I have not asked you about this particular box yet, sir.

With regard to your contact in July I am talking about.

A After I picked up these four boxes, I returned to the Birmingham FBI office and there wrapped the boxes for shipment. And they were turned

Geary - direct

over to me to a Ryder Truck Line driver for shipment to the Special Agent in Charge of the Miami FBI office under Government bill of lading No. D-4942255.

Q Do you have a copy of that bill of lading, sir?

A Yes, sir, I do (producing document).

Q Where did you obtain this copy?

A I obtained this copy from our files in the Birmingham office of the FBI.

Q Did you compare this with the bill of lading which was on the package which you turned over to the Ryder Truck Lines?

A Yes, sir, I did.

Q You stated it is identical or a duplicate?

A It is a duplicate, yes, sir.

MR. MORRIS: I will offer this.

MR. GREENSPAHN: The same objection.

THE COURT: I will note the same objection for the defendants and make the same ruling and admit it solely for the purpose I have indicated.

Geary - direct

(Thereupon the instrument
referred to was received in
evidence as Government's
Exhibit No. 38.)

BY MR. MORRIS:

Q Now, did you have occasion to see
Mr. Hendon during the month of October of this year?

A Yes, sir, I did.

Q Will you relate what happened on that
occasion?

A On that date Mr. Hendon furnished me--

MR. GREENSPAHN: If it please the
Court, this is immaterial and irrelevant to the offense
charged in this indictment. It goes only up to and
including the date of the indictment.

THE COURT: When is this date?

MR. GREENSPAHN: October 22nd the
indictment was returned--on either the 10th or the
11th. I am not real sure.

THE COURT: What is the materiality?

MR. MORRIS: He obtained this box that
we have been using to illustrate--

Geary - direct

THE COURT: It is not necessary. That box is already in evidence. I will sustain the objection to it.

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Geary, did you ever inspect the contents of any of the boxes that you received?

A No, sir, I did not.

MR. GREENSPAHN: I have nothing else.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please, sir.

THEREUPON--

GEORGE EVAN DAVIS, JR.,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

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Davis - direct

THE WITNESS: George Evan Davis, Jr.

I am a Special Agent of the FBI.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Davis, how long have you been so employed, sir?

A Twenty-nine years.

Q Other than those occasions, sir, upon which you accompanied Mr. Ball to deliver simulated dynamite, did you make any other deliveries?

A I did.

Q When and where was that, sir?

A It was on August 27, 1968.

Q Where?

A I delivered a box to him from our office to the St. Clair-Boulevard Cafeteria.

Q Who is "him"?

A To Morales--Ricardo Morales.

Q All right. What was that box for?

A It was a simulated dynamite box manufactured by the duPont Company.

Q How many sticks of dynamite were in it,

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Davis - direct

if you know?

A There were thirteen sticks in it.

Q Is that how many come in a box?

A Fifteen come in a box.

Q I show you Government's Exhibit 19 in evidence and ask you if this is that type of box, sir.

A Yes, it is.

Q What happened to the other two sticks?

A I kept the other two sticks out and put the date 8-27-68 and my initials on each stick.

Q I show you, sir, Government's Exhibit No. 22 in evidence and ask you when and where you have seen this before.

A This is one of the sticks that I removed from the box just described on August 27, 1968, and it bears my name--G. E. Davis--and the date 8-27-68.

Q Agent Davis, you testified that you removed two sticks. What did you do with the other one, sir?

A The other stick was sent to the FBI laboratory.

Q Have any alterations been made on this

Davis - direct

stick other than the placing of the evidence sticker and these papers and your initials?

A No, sir, none whatsoever.

Q This has the remaining sticks in the box at the time you made the delivery?

A Yes.

Q Where did you go, sir, after having left Mr. Morales?

A I returned to the Miami office of the FBI.

Q At approximately what time was that?

A That was approximately 10:25 a.m., approximately.

Q Where did you get this box, sir?

A We got it from our Birmingham office of the FBI.

Q How much, if any, did you personally receive?

A Two hundred pounds.

Q Do you have with you, sir, the waybill which was attached to the package?

A Yes, sir, I do.

Davis - direct

Q May I see that, please? Do you have with you, sir, the waybill which was attached to the 100 pounds which you did not personally receive?

A Yes, I do.

Q Where did you get these waybills, sir?

A I got these from our office records.

Q Are they kept in your office records as a regular course of business?

A They are.

Q Is it the regular course of business to keep these records?

A It is.

Q Do these records reflect approximately those events which they purport to reflect?

A They do.

MR. BIERMAN: Your Honor, I would offer these at this time as Exhibit No. 39.

THE COURT: Let counsel see them.

MR. GREENSPAHN: Your Honor, I would note before the Court that these are copies. There should be originals if they came with the shipment.

MR. BIERMAN: The testimony is that this

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Davis - direct

was on--

THE COURT: I gather from the testimony that is one of the duplicate originals which is retained by the person who received the package.

MR. BIERMAN: That is correct, your Honor. I would presume the trucking company keeps their own originals.

THE COURT: I will ask him. Is that the copy that you were given at the time the package was received by you?

THE WITNESS: Yes, sir, that is.

THE COURT: That is the only one that you got?

THE WITNESS: That's the only one we have, yes, sir.

THE COURT: All right, sir.

MR. BIERMAN: I would offer, your Honor, renumbering these, this one waybill as Exhibit 38-A and this exhibit as 37-A.

THE COURT: They will be received in evidence as Government's Exhibit 38-A and 37-A.

Davis - direct

(Thereupon the instruments
referred to were received in
evidence as Government's
Exhibits Nos. 37-A and 38-A.)

BY MR. BIERMAN:

Q I show you, Agent Davis, what will be
marked as Government's Exhibit No. 39 for identifi-
cation and ask you when and where you have seen this.

A May I open it?

Q Yes, sir. Be careful. There is
powder.

THE COURT: Yes. You would have to
open it if you are going to tell us what is in it.

Is this the other stick of dynamite?

THE WITNESS: Yes, sir.

THE COURT: What is the purpose of
offering that?

MR. BIERMAN: The laboratory will be
here later and he has to identify it.

A This is the second stick that was
removed by me from the box, which also bears my name,
George E. Davis and the date 8-27-68.

Davis - direct

Q And is this the stick which you testified was sent to the FBI laboratory?

A Yes, sir, it is.

MR. BIERMAN: I move the introduction of Government's Exhibit No. 39 for identification into evidence.

MR. GREENSPAHN: No objection.

THE COURT: All right, sir. It will be admitted in evidence.

(Thereupon the stick of dynamite referred to was received in evidence as Government's Exhibit No. 39.)

THE COURT: Are there any further questions?

MR. BIERMAN: Yes, your Honor.

BY MR. BIERMAN:

Q Where, Agent Davis, did the thought of getting simulated dynamite come from?

MR. GREENSPAHN: If it please the Court, this is going to require a hearsay answer.

THE COURT: Well, does this man know of

Davis - direct

his own knowledge?

MR. BIERMAN: Well, he would know if something was communicated to him.

THE COURT: Then that would be hearsay and I will sustain the objection to it.

BY MR. BIERMAN:

Q At what time did you first hear of the idea of simulated dynamite?

A In June, 1968.

Q Did you ever have any occasion to give any money to Ricardo Morales?

A Yes, sir, I did.

Q When was that?

A The first occasion was on October 16, 1968.

Q How much money was that?

A \$424.33.

Q For what purpose was that money given?

A That was to pay for his expense in moving from one residence to another in Miami, upon our suggestion and request.

Q Did he request money from you?

Davis - direct

A No, sir, he did not.

Q Did he accept it when you gave it to him?

A Yes, he did.

Q Did you ever give him any other money?

A Yes, sir, I did.

Q When was that?

A I gave him \$200 on October 24, 1968.

Q Did he request that money from you, sir?

A No, sir, he did not.

Q I have just one more exhibit to show you and then we will be through.

I show you Government's Exhibit No. 25 in evidence and ask you when and where you have seen these before.

A These are two tools--a small wrench and a pair of pliers--which I first saw on October 1, 1968, when they were left in my mail folder with a note attached by Special Agent Joseph Marszalek.

Q What did you do with them, sir?

A I kept them and I contacted Ricardo

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Davis - direct

Morales and requested him to come to our office.

Q After you were completed with that portion, what did you do with them? Did they remain in Miami, sir?

A Oh, they remained in Miami, yes, sir, until I gave them to another agent to transmit to the FBI laboratory.

Q Are these the same tools which were transmitted?

A Yes, sir. At the time, I X'ed these in the company of Mr. Morales. With an electric pencil I etched on this tool the initials "R. M."

Q Do you see that now, sir?

A Yes, I do. It's right here on the flat surface. On this pair of pliers, I first tried to etch with a steel pencil, but it would not receive any impression because of the hardness, apparently. So then I took a red pencil and wrote the initials "R. M." right here in the presence of Mr. Morales.

Q Do you find that?

A Yes, sir, I do, right here.

MR. BIERMAN: I have no further questions.

Davis - cross

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Davis, with regard to the shipment from Birmingham or from the duPont Company to the FBI office in Miami that you have talked about, were you the direct deliverer or was there some intermediate to you who received the shipment?

A There was an intermediary.

Q Who was the intermediary?

A I don't remember. It was one of the clerks in our office.

Q What is the procedure that is employed when something is delivered to your office? Are they addressed to the Special Agent in Charge or one of the Special Agents?

A When the delivery is received by the clerk who handles such matters--and in this particular case I can only speak of what happened in this particular case because I am not normally in the business of receiving shipments to the office, but in this case I was notified by a clerk, and the receipt was placed on my desk relating to the delivery of 200

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Davis - cross

pounds. And at that point I verified that the delivery had been received, and it was placed in a vault in our office.

Q Did the bill of lading come attached to the package itself or was it separate and apart from the package?

A I don't know about that, because all I saw on my desk was the receipt.

Q You have, of course, before coming in here today, studied the receipt, looked at it?

A Yes.

Q I would call to your attention--and I will bring the exhibit to you--this is Exhibit 38-A. I would call to your attention some marking apparently handwritten and in inked pen a description of the article.

A Yes, I see that.

Q What does that say, sir?

A That means "Received and acknowledged on 7-31-68." And the initials are LDS.

Q Who is LDS, if you know?

A That is Linda Smith.

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Davis - cross

Q Who is Linda Smith?

A She is a property clerk in our office.

Q She would have been the one to whom these were transmitted?

A That's correct.

Q Now, sir, you will also note that in the description of the article, in describing the article as one package of Government property, there is a column calling for a designation of the weight of the article. Do you see that?

A Yes, I do.

Q What was the weight that was indicated in typewriter fashion on the waybill before it arrived at your office?

A It appears to be "100 pounds."

Q Now, what, if anything, has been done to modify that?

A A "2" has been placed over the "1."

Q Is there any other writing in that particular column?

A Yes, sir. Somebody has initialed it.

Q Do you know whose initials they are?

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Davis - cross

A No, sir, I do not.

Q Was this waybill in the condition that it now presents itself at the time that you received it, or was the alteration made on the face of it after you received it?

A Well, I cannot testify to that because I did not see this portion, the bill of lading portion, until several days ago when I contacted this clerk in order to get the record relating to this shipment.

Q When this was offered into evidence, you testified, Mr. Davis, that you received this with the package and observed it at that time. Was I incorrect about that?

A Well, I received the receipt. The receipt was placed by my desk.

Q Now, you are referring to the blue slip that is on top of the waybill?

A That's right.

MR. GREENSPAN: Your Honor, in the light of the testimony, I would respectfully move that Exhibit 38-A be stricken. It has not been properly qualified for admission. The blue slip or

Davis - cross

the waybill will have to be produced, if that is what Mr. Davis is talking about.

THE COURT: I am inclined to agree with you, sir.

MR. BIERMAN: We will bring in an additional witness in regard to that.

THE COURT: All right, sir. At this moment the defense's motion to strike that exhibit is granted. It is no longer to be considered in the evidence.

BY MR. GREENSPAHN:

Q I show you Government's Exhibit No. 38-A, which is the other waybill, if I am not mistaken, that you presented today and ask you if the same set of occurrences presented themselves that you have testified to with regard to 38-A.

A No, sir. I did not receive this, myself.

MR. GREENSPAHN: I would have the same motion, your Honor.

THE COURT: All right, sir. I will make the same ruling.

Davis - cross

BY MR. GREENSPAHN:

Q Now, Mr. Davis, with regard to the second stick of dynamite that you indicated had been sent to the laboratory, when you identified it today, did it appear to be in the same condition, the same packaging that it had been when you sent it up there?

A Yes, sir.

Q Were there any changes, any alterations in that package?

A It was the same except that the contents appear to have been changed--that is, examined or changed. It is not what you would call a perfect stick now.

Q What you are telling me is that it appears some of the contents have been removed?

A Yes, sir.

Q Was it a perfect stick when you first saw it?

A Yes, sir.

Q Did you at any time personally open up the wrapping of that exhibit?

A No, sir, I did not.

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Davis - cross

Q What was your procedure in sending it to your laboratory?

A I gave it to Mr. Crane to handle.

Q You do not know of your own personal knowledge what, if anything, transpired subsequent to that time in terms of the physical handling of the object?

A No, sir, I don't.

10-1

Q On October 16 you gave Morales \$424.33. This is evidenced by a receipt that he signed for you. That is part of the composite exhibit that is in evidence. It is dated October 16th. Now, was this money asked for by Mr. Morales--that is, the \$424.33?

A No, sir, it was not.

Q Did you prepare this receipt where Morales acknowledged the receipt from you specifically of this sum?

A Yes, sir, I did.

Q Did you personally type that up?

A I personally typed that up.

Q Now, on the receipt you itemize the first month's rent and the last month's rent on a one-

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Davis - cross

year lease. Were you personally familiar with the terms and conditions of the lease agreement that this refers to?

A No, sir.

Q Were you aware of the fact that Morales had committed himself to a one-year occupancy by a lease either of an apartment or a house or whatever it may have been?

A Yes. He told me that he had obtained a lease for one year.

Q To your knowledge he remained a resident at that place of abode since October 16, 1968?

A Yes, sir, he has.

Q And, to your knowledge, it is his intention to remain there?

A So far as I know it is.

Q On the receipt form of October 16, 1968, among other things it says this money was being furnished to Morales to enable him to remove himself from his past residence to a new residence, to afford him greater protection and security as a witness for

Davis - cross

the Government in this case?

A That's correct.

Q You also paid \$64.33 for the installation of water and electric; you paid \$35 for moving costs, and \$25 for light bulbs and floodlights, et cetera?

A That's correct.

Q Now, you say he did not ask you for this. What were the circumstances, then, that compelled you on October 16 to gratuitously give to him or to offer it to him?

A Because of the type of undercover investigative work that Mr. Morales was doing upon our request, and because of the nature of the individuals that he was dealing with, and the type of activity that we had reason to believe they were involved in, we felt like it would be a risk to his personal safety if he continued to reside where he was then living, which was in a Cuban neighborhood; and in view of the fact that by this time he had stated that he would be willing to testify as a Government witness in this case.

Davis - cross

Q Were you of the opinion at that time that any of these nine defendants, any of the male defendants, were going to do him harm?

A Not as individuals.

Q Collectively so or with particular reference to these defendants?

A I had no specific evidence.

Q But if I understand you, you imputed whatever thoughts you had to these defendants?

A Yes, sir.

Q Well, Mr. Davis, on October 16th, if memory serves me correctly, all of these named defendants were in the County Jail.

A That is true.

Q So really you were not worried about them doing any harm?

A I was worried about the group they belonged to, their friends and people who might be sympathetic with them, who believed things they do.

Q You had no concrete evidence of any form of intimidation of Mr. Morales, had you?

A No, no specific form.

Davis - cross

Q Then, sir, on October 24, a matter of some eight days after you paid Mr. Morales the money for the first and last month's rent, you gave him some more money which you said he did not request. What was your purpose in doing that?

A My purpose was--I knew that when a person moves from one location to another, there are always incidental expenses that come up, and I felt like undoubtedly he incurred other expenses, and I felt like he was certainly due this additional amount of money to take care of any such expenses, although he had not requested any additional money. He had never requested any money, as a matter of fact.

Q Did he ever refuse any money that you offered to him?

A No, he did not, although we had insisted in each case that he accept money.

Q Why did you insist that he accept it if he did not want it?

A Because I felt it was his just due, and the least we could do because of the risky business that he was involved in on our behalf.

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Davis - cross

Q Well, was he involved in any risky business on your behalf on October 16 or October 24?

A He had already been involved in this risky business prior to that time.

Q Did you know Mr. Morales before April, 1968?

A I never knew him in April, 1968.

Q Before that time is the question.

A No, sir, I did not.

Q When was your first acquaintance with him?

A About the middle of July, 1968.

Q Up to that point he had been Agent Ball's principal concern?

A That's correct.

Q Had you, in the course of your official duties, ever had occasion to investigate or become concerned with Mr. Morales?

A No, sir.

Q To your knowledge, had your partner, prior to 1968, had occasion to become concerned with Mr. Morales in any respect, for the purpose of

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investigation or otherwise?

MR. BIERMAN: Your Honor, I am going to object to that question.

THE COURT: I am going to sustain the objection.

BY MR. GREENSPAHN:

Q Mr. Davis, how often did you meet personally with or speak to Mr. Morales?

A Beginning in about the middle of July, I had occasion to contact him or speak to him several times a week.

Q Did you at any time direct him as to the manner and means he was to go about his undercover work?

A Yes.

Q What were your specific instructions to him?

MR. BIERMAN: I object to the form of that question. That is rather vague, to say the least.

THE COURT: Let us find out whether he gave him any specific instructions. If he did, then

Davis - cross

ask him what they are.

BY MR. GREENSPAHN:

Q Did you give him any specific instructions?

A Yes, from time to time.

Q Taking it one step further, as you recall them, what were those specific instructions?

A For instance, when he reported that Mr. Bosch had requested dynamite, our instructions were to meet us at a certain place to accept the delivery of simulated dynamite that he could hand to Mr. Bosch.

Q Were there any other instructions of a different and specific nature that transpired over the course of these several months that you and Morales dealt?

A To report the results to us of his contact with Mr. Bosch and with members of Bosch's organization.

Q Did you at all times have trust in Mr. Morales?

A Yes, I did.

Davis - cross

Q You never doubted him?

A No.

Q Did you ever search his car or his house or any other object that belonged to him?

A Never.

Q Were you aware that some of your fellow agents had made such searches?

A I don't specifically recall any such search.

Q Mr. Davis, with particular reference to yesterday and today, is Mr. Morales still in the service of your agency?

MR. BIERMAN: I am going to object to the form of that question. I do not exactly know what it means.

THE COURT: I am going to sustain the objection to the question as it is presently phrased.
BY MR. GREENSPAHN:

Q Is Mr. Morales still employed either on a regular or full-time or part-time basis by your agency?

A He was never employed by our agency.

Davis - cross

Q Doing either on a full-time or part-time basis, has he, to your knowledge, done any such work since October 11, 1968?

A Not to my knowledge; not in the sense of being employed.

Q Well, in any sense, sir?

A He has assisted the FBI.

Q In prosecutions other than this?

A Not to my knowledge.

THE COURT: I will ask counsel to rephrase his question. The FBI has nothing to do with the prosecution. It is purely an investigative and arresting agency. The United States Attorney is the one who conducts the prosecution.

MR. GREENSPAHN: I stand corrected, your Honor.

BY MR. GREENSPAHN:

Q Other than this case has he participated in any way with your department?

MR. BIERMAN: I will object on the basis of relevancy. If the question deals with whether the money was for anything else, that might be

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relevant. But anything other than Mr. Morales did is not relevant.

THE COURT: I will permit the witness to answer that question if he knows. Answer it yes or no. I will not permit any inquiry, if he answers yes, as to what, if anything else, he has done. But the witness, if he knows, can answer it yes or no.

A The answer is yes.

MR. GREENSPAHN: I have forgotten what the question was.

THE COURT: The question was whether he was assisting the FBI in any other investigation since October 16, 1968.

MR. GREENSPAHN: Okay.

THE COURT: And the answer was yes, and I have said that I will not permit counsel to go into those investigations unless they are connected with these defendants and this case.

BY MR. GREENSPAHN:

Q Then, Mr. Davis, are these subsequent investigations to which you have now said Mr. Morales is a participant in any way remotely or otherwise

Davis - cross

related to these defendants?

A No.

Q Is Mr. Morales being paid for his services in behalf of the other investigations that you referred to?

A He is not being paid for his services.

Q When did he, to your knowledge, terminate his investigation of these nine defendants?

MR. BIERMAN: I am going to object to the form of this question.

THE COURT: I will sustain the objection to the question as it is phrased.

Mr. Morales was not conducting the investigation; the FBI was conducting the investigation.

BY MR. GREENSPAHN:

Q Has Mr. Morales received any money from you or from any other federal agency that you are aware of since October 24, 1968?

A Not to my knowledge.

Q Were you personally acquainted with any of the nine defendants prior to the inception of this case?

Davis - cross

A Yes.

Q With which of the defendants were you personally acquainted?

MR. BIERMAN: Your Honor, I fail to see what on direct examination this goes to.

THE COURT: I cannot possibly see the materiality unless counsel intends to develop some bias or prejudice on the part of this particular witness as against a particular individual. Other than that, whether he knew them or not would not be material.

MR. GREENSPAHN: Your Honor, your perception is quite right.

THE COURT: I will permit the question to be asked if that is your purpose.

BY MR. GREENSPAHN:

Q Go ahead, sir.

A I had been previously acquainted with Dr. Bosch. I have met Jorge Gutierrez and Miss Aimee Miranda.

Q With particular regard to Dr. Bosch, you have previously testified against Dr. Bosch in

Davis - cross

other prosecutions that were unsuccessful, have you not?

A In one other prosecution.

Q And you have apparently worked on several other prosecutions that were unsuccessful, have you not, sir?

A Not any FBI case. I only had one FBI case involving Dr. Bosch.

Q When was that, if you can recall, in point of time?

A That began back in 1964.

Q When did it terminate?

A The trial was held in 1966.

Q Did you continue your investigation in the regular course and scope of your duties subsequent to December, 1966, of the defendant Bosch?

A Off and on at different times, with the exception of almost a two-year period beginning in March, 1966.

Q Mr. Davis, this calls for complete candor. Was it your desire, as of the conclusion of the proceeding in December, 1966, to do anything and

Davis - cross

everything that you could to again prosecute Orlando Bosch?

A Only in the event any evidence came to our attention which would indicate that he had violated a law of the United States.

Q Did you at that time formulate the personal opinion that you would personally make every effort available to you to discover such evidence if any evidence there be?

A Yes.

Q You might say, then, that Dr. Bosch has been a thorn in your side?

MR. BIERMAN: I am going to object to that.

THE COURT: I will sustain the objection to that question.

BY MR. GREENSPAHN:

Q Did you or your department receive any added impetus to your efforts to investigate Dr. Bosch from your departmental superiors either in Washington or anywhere else?

MR. BIERMAN: I will object to the

Davis - cross

question.

THE COURT: I will sustain the objection.

BY MR. GREENSPAHN:

Q Mr. Davis, you are Spanish-speaking, are you not, sir?

A No, I am not.

Q You are not Spanish-speaking?

A No.

Q But you have concentrated over the course of the last few years in cases involving Spanish-speaking people?

A Yes, I was connected with many individuals or with many investigations involving Spanish-speaking people.

Q Have you, sir, conducted any investigation relative to the existence or operation of the persons who may be acting in behalf of the Fidel Castro Government in Cuba?

A Yes, I have.

Q To your knowledge, sir, have there been any prosecutions of any persons as agents of that

Davis - cross

government in the Southern District of Florida or in this entire judicial district?

MR. BIERMAN: I am going to object to the question.

THE COURT: I will sustain the objection.

MR. GREENSPAHN: If the Court please--

THE COURT: I do not need any argument.

MR. GREENSPAHN: Then, your Honor, I would ask that, in the interest of time, Mr. Davis be instructed, as some other witnesses have been, to be available for my further examination.

THE COURT: All right, sir.

Is there any redirect?

MR. BIERMAN: Yes, sir.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q What division of the FBI here in Miami are you assigned to, sir?

A Security Division.

Q In your assignments, Mr. Greenspahn asked

Davis - cross

you if you paid any attention to Dr. Bosch. Have you done that, sir?

A I have.

Q For what reason?

A It is part of my duties to investigate groups that are involved in possible violation of the laws of the United States.

Q And you were asked, sir, whether or not you were involved in another prosecution of Dr. Bosch; is that correct, sir?

A Yes.

Q What was the nature of that prosecution?

A That was for extortion.

Q At the conclusion of that trial and at some later time, did you make any recommendations to the United States Attorney's office?

A I did.

MR. GREENSPAHN: If it please the Court, this gets way out of the scope of cross examination. I don't know the answer to it, but it is way out in left field somewhere.

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Davis - redirect

MR. BIERMAN: The entire area of his dealings with Dr. Bosch have gone way beyond--

THE COURT: Gentlemen, you have both gone a long ways, and since I have permitted counsel for the defense to go a long way and counsel for the Government did not object, I am going to permit that particular question to be answered.

BY MR. BIERMAN:

Q What did you recommend, sir, if you did?

A An investigation for perjury.

Q Did you conduct that investigation?

A I did.

Q Who was the subject of that investigation?

A Orlando Bosch.

THE COURT: I will permit you to recross on that. I expect you will want to.

MR. GREENSPAHN: Thank you.

THE COURT: Did any indictment result or was any indictment returned as the result of your investigation and your recommendations?

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Davis - redirect

THE WITNESS: No, sir.

THE COURT: All right.

BY MR. BIERMAN:

Q Agent Davis, have you treated Dr. Bosch in any way different from other subjects which you have investigated in regard to the internal security of the United States?

A No, sir, I have not.

Q Did you, sir, manufacture or produce any evidence in this case?

A Never.

Q On the date of October 16th when you arranged for the moving of Mr. Morales, did you know, sir, whether or not any of these individuals were on bail or could make bail?

A I am not certain about that particular date, but I did know that the bail for several of them was rather low, and it was presumed that they could very easily make bail.

Q Agent Davis, you testified, sir, that you have been an agent for twenty-nine years. How much of that has been in the Miami area?

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Davis - redirect

A Seventeen years.

MR. BIERMAN: I have nothing further.

THE COURT: Counsel may recross with respect to that portion I have indicated, if he so desires.

MR. GREENSPAHN: Yes, sir.

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q One question relating to something the Judge said about this bail being relatively low. Is \$50,000 a low bail, in your estimation?

A No, that is not a low bail.

THE COURT: That all depends on who it is. To John D. Rockefeller it would be pretty low. To me it would be awfully high.

BY MR. GREENSPAHN:

Q Mr. Davis, have you at any time threatened Orlando Bosch?

A No, I never have.

Q Mr. Davis, when did you commence your investigation relative to perjury and when did you terminate that investigation?

Davis - recross

A Beginning in December, 1966, shortly after the trial.

Q When did you terminate it?

A In approximately February, 1967.

Q Were you assisted by anyone in that investigation?

A No. I conducted that by myself.

Q Did you do that in the normal and usual course and scope of your professional activities, or did you do that on your own time?

A I did it in the normal scope of my activities and after consulting the United States Attorney as to the advisability of doing that.

Q Was any presentment ever made to the Grand Jury or other lawfully constituted authority for the issuance of an arrest warrant?

A No, it was not.

Q Do you have in your present possession, back at your office or elsewhere, the files and records of those investigations?

A Yes, sir, we do.

Q Is it your standard procedure, Mr. Davis, to investigate a defendant who has been

Davis - recross

successful and has received a judgment of acquittal from a United States Federal Court and a jury properly impaneled for perjury?

MR. BIERMAN: I object.

THE COURT: I will sustain the objection.

Gentlemen, I think we are going a little too far now.

MR. GREENSPAHN: That is all I have as to that, but I do have a motion to make before the Court.

THE COURT: You may step down. You will have to remain subject to call. If you will keep in touch with the United States Attorney so that you will be available on short notice, I would appreciate it.

THE WITNESS: Thank you.

(Witness excused)

THE COURT: Do you have a motion?

MR. GREENSPAHN: Yes, sir, I do.

THE COURT: Ladies and gentlemen of the jury, this may be a good time to take a little break. We will have a recess for about ten minutes.

The same instructions, of course, are still applicable.

(Thereupon the jury was excused,
pursuant to which the following
proceedings were had out of the
presence of the jury:)

MR. GREENSPAHN: Your Honor, I would
most respectfully move that the Court now require the
Government to produce for my inspection at any place
the Court designates the files to which Mr. Davis has
alluded relative to his investigation of Dr. Bosch
since that may be very material to this defendant to
show a personal motivation on the part of this agent
and perhaps of his administrative bureau to prosecute
this defendant before you.

THE COURT: The motion is denied.

MR. GREENSPAHN: Thank you, sir.

THE COURT: The Court will be in recess
for about ten minutes.

(Thereupon a short recess was
taken, pursuant to which the
following proceedings were had:)

THE COURT: You may proceed. Bring the
jury in, please.

(Thereupon the jury resumed their seats in the jury box, pursuant to which the following proceedings were had:)

THEREUPON--

ALFRED YEOMANS,

called as a witness on behalf of the Government, having first been duly sworn, was examined and testified as follows:

THE CLERK: Will you please state your full name, your address and your occupation.

THE WITNESS: Alfred Yeomans, 5025 Northwest 8th Avenue. Occupation: Longshoreman.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Yeomans, I call your attention to the night of May 25, 1968. Were you working on that date?

A I was.

Q Where were you working?

A On Dodge Island, on the ASAKA MARU.

Q What kind of work were you doing?

A Dock foreman.

Yeomans - direct

Q Did anything out of the ordinary happen while you were working there that night?

A Nothing except that coincident.

Q What was that?

A Well, I saw a boat behind the ASAKA MARU.

Q What kind of boat?

A A little small--it looked like a little aluminum boat, a little small boat, and there was a man in the boat. I went back down. I was handling the lines. I went back there to turn the lines loose. This guy jumped out of the boat, and a couple of seconds later one come out from up in the rudder.

Q The rudder of where?

A Of the boat.

Q Of which boat?

A The ASAKA MARU.

Q Then what happened?

A I asked him, "What you all doing up in there?"

He said "Fishing." And he jumped

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Yeomans - direct

overboard.

Q Were you able to tell what kind of voice it was?

A It was a foreign accent, sounded like Spanish.

Q Then what happened?

A Another one was up in there. He just come sliding down. He didn't stop. He went right on over behind him.

Q Then what happened?

A He got in the water, they swum and pushed the boat out and away, and then he climbed in it and rode across the bay.

Q Were you able to make out any of the faces of those people?

A I was not.

Q Did the ASAKA MARU leave after that?

A It leaved immediately.

MR. KLEIN: I have nothing further.

THE COURT: All right, sir. Cross examination?

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Yeomans - cross
CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Yeomans, do you speak the Spanish language?

A I don't.

Q You have identified an accent from the fisherman as a Spanish accent?

THE COURT: No, sir. He said a foreign accent.

THE WITNESS: A foreign accent.

BY MR. GREENSPAHN:

Q Do you know what language?

THE COURT: He just said "foreign."

MR. GREENSPAHN: I thought he had said "Spanish."

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q Do you have any idea what nationality it was?

A No, I don't.

MR. GREENSPAHN: I have nothing else.

THE COURT: All right, sir.

MR. KLEIN: Thank you. Nothing further.

THE COURT: You may be excused.

(Witness excused)

THE COURT: He has clarified that he is unable to distinguish one from the other. His testimony does not amount to it being Spanish.

THEREUPON--

DAVID R. CRIBBS,

called as a witness on behalf of the Government, having first been duly sworn, was examined and testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: David R. Cribbs.

Address: 305 Pennell Circle, Tallahassee. Student.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Cribbs, I will ask you to speak nice and loud so the last jurors in the last seats can hear you, sir.

A Fine.

Q How were you employed this summer?

Cribbs - direct

A I was employed as an office boy with Harrington & Co., Inc. I was--but I was an assistant agent to the main agent.

Q Were you working, sir, on August 8, 1968?

A Yes, I was.

Q Where were you?

A Before twelve o'clock I went to Customs and cleared the ship for release, and at one o'clock brought the papers aboard the ship.

Q Did anything unusual occur?

A There was an explosion about 1:15.

Q Were you able in any way to judge the strength of that explosion?

A It was enough to throw me off my feet up under the railing of the ship. I was directly at amidships.

Q That was around one o'clock on August 8, 1968?

A About 1:15.

Q Did you observe or did you go to the area of the explosion?

Cribbs - direct

A We went directly to the side of the ship it was on. That's where we thought the explosion occurred. That is where most of the smoke was taking place, and that was near the portside, and the chief engineer ran out of his room and down, and we started to go down the stairs, and he said--

MR. GREENSPAHN: Objection as hearsay.

THE COURT: I will sustain the objection to what he said. You cannot testify to what someone else said out of the presence of any of the defendants.

A (Continuing) There was so much water going into the engine room we were not able to go down into it.

BY MR. BIERMAN:

Q What ship were you aboard?

A The CARIBBEAN VENTURE.

Q Do you know, sir, whether or not this was a regular voyage of the CARIBBEAN VENTURE?

A It was scheduled to leave for Nova Scotia.

Q And in your position as an assistant

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Cribbs - direct

ship's agent, do you have any knowledge of how many previous trips the CARIBBEAN VENTURE had taken?

A It had made one. It made its maiden voyage from Germany to Miami, Dodge Island, and then it made one to Venezuela and back, and it was scheduled to leave for Nova Scotia, Sheet Harbour.

Q And at the time of the explosion, then, it had been from Europe to Venezuela?

THE COURT: From Venezuela to Miami and then it was en route to Nova Scotia.

MR. BIERMAN: I have nothing further.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Cribbs, for how long a period of time, to your knowledge, had the CARIBBEAN VENTURE been in Venezuela?

A It was approximately four days, I believe.

Q Of course, you were not there? You did not make a personal observation of the vessel?

Cribbs - cross

A No, but we always had contact by Telex.

Q Do you know the nature of the cargo the vessel was carrying from Venezuela?

A It was trailers.

Q Was there anything else in the hold other than trailers that you are aware of?

A There was one automobile a student had that he was taking to La Guaira.

Q Talking about trailers? Are you talking only about trailers or--

A Vans.

Q Were there any automotive machines on the vessel other than the machinery of the vessel itself?

A None.

Q Where at Dodge Island was this vessel when you boarded it on the 8th of August?

A It was at Dodge Island at the old Pier 3.

Q Pier 3?

A Correct.

Cribbs - cross

Q Were there other vessels docked at the same time at the same pier?

A There was one directly behind us. It was a very small vessel. I'm not sure what flag it flew under.

Q Do you recall whether it was in fact a foreign as opposed to an American ship?

A It was a foreign flag, yes, sir.

Q Were the dock workers on the dock working with the unloading or loading of the vessel at Pier 3?

A This ship that was directly behind us, it was not loading or unloading. They were doing repair work. I think they were installing a radar system.

Q Was this a ship of war or was it a commercial merchantman?

A Commercial.

Q Now, sir, when you boarded the vessel, were you required to identify yourself? Was there any vessel security?

A No, sir, because I had gone through

Cribbs - cross

that previously when it first came in to Dodge Island from Germany. They knew who I was because I had been in contact with them.

THE COURT: What he is asking you, in substance, is this: Did they have anybody at the gangplank in order to pass people on board the vessel, or could anybody just walk on board? Is that what you mean?

MR. GREENSPAHN: Yes, sir, that's correct.

A No one with any authority whatsoever greeted me at the top of the gangplank.

BY MR. GREENSPAHN:

Q How many people were there in and about the pier area immediately adjacent to the vessel and on the vessel at the time that you were there, and the approximate number?

A I have no way of saying that because there were warehouses there and office buildings there, and I know that the crew was on board the ship and the crew behind the ship.

Q Is it fair to say there was a good many

Cribbs - cross

people?

A Yes, sir.

Q Did you observe any persons immediately after the explosion that you have described who removed themselves from the pier area or from the vessel?

A No. We were just merely concerned with the chaos on board the ship and the cause of the explosion.

MR. GREENSPAHN: Thank you, sir. I have nothing further.

THE COURT: Redirect?

MR. BIERMAN: No further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THEREUPON--

THOMAS P. TOOMEY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows: .

THE CLERK: Please state your full name,

Toomey - direct
address and occupation.

THE WITNESS: Thomas P. Toomey,
explosives ordnance disposal technician at San Juan,
Puerto Rico.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Toomey, I notice you are in
uniform. Are you in the United States Navy, sir?

A That's right.

Q What is your rank?

A I am a warrant officer.

Q How long have you been in the Navy,
Mr. Toomey?

A I am in my twentieth year.

Q Do you have any specialty in the Navy?

A I specialize in explosive ordnance
disposal.

Q How long have you been engaged in that
type of work?

A I am in my twelfth year.

Q Have you had any specialized training
in the field of ordnance?

Toomey - direct

A Yes, sir. Our basic training starts out at the Underwater Swimming School in Key West, Florida. And from there on to Indianhead, Maryland. The basic course is approximately a year long.

Q When did you take that course?

A In 1957 I completed that course.

Q Were you on duty on September 12, 1968?

A Yes, sir, I was.

Q Do you recall anything unusual that occurred that day?

A That evening I received a call from the staff duty officer--Commander, Caribbean Sea Frontier.

MR. GREENSPAHN: If it please the Court--

MR. MORRIS: He said he received a call. He is not going to be asked to relate conversation.

THE COURT: All right, sir. Go ahead.

BY MR. MORRIS:

Q Go ahead.

A I received a call to--

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Toomey - direct

THE COURT: Do not tell us what the call was, sir. After you received the call, what did you then do?

THE WITNESS: I proceeded to the Coast Guard Search and Rescue Coordinating Center at San Juan.

Q Then what did you do, sir?

A We boarded a boat--a Coast Guard craft--and proceeded to the Spanish ship COROMOTO.

Q Where was that located?

A She was approximately five miles at sea outside the channel entrance at this time.

Q Did you go aboard the COROMOTO?

A Yes, sir, I did.

Q What did you observe there aboard the ship?

A We were taken to the engine room spaces and were shown damage that was sustained from an explosion.

Q Will you describe what you saw, please?

A The after bulkhead in the engine room was buckled inward with numerous piping, water mains

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Toomey - direct

ruptured. The deck plates were buckled, and there were fragmentations from a fractured shaft that had been thrown through the engine room.

Q Could you determine whether or not the vessel was taking on any seawater?

A No, sir, not at that point.

Q What happened next?

A We stayed aboard the ship for entrance into the port and tied up at Pier 6.

Q At which port, sir?

A San Juan.

Q All right. Go ahead.

A The vessel tied up at Pier 6, and I conducted a dive to investigate the external damages and to try to determine if any other dangerous devices were attached to the ship.

Q What did you observe during the course of that dive, sir?

A On the starboard side aft near the rudder and screw there was a hole approximately four feet in diameter. The metal at this point was blown inward to the inside of the ship. And the other side,

Toomey - direct

on the port side immediately adjacent to this hole the bulkhead or the shell plating was buckled outward. Numerous rivets in this area were blown outward completely and others were blown outward partly.

Q Could you determine what had been the nature of the cause of this damage?

A It was apparent to me that it was from an explosion from some sort of a device that was in contact with the hull at the stern of the ship.

Q Could you determine from your examination whether the explosion had occurred on the exterior or interior of the hull of the vessel?

A Yes, sir. I'm sure that it was on the exterior.

Q How could you be sure of that?

A From the condition of the metal and--

THE COURT: He has already testified where the explosion took place the metal was bent inward, and on the opposite side of the explosion the metal of the ship was bent outward; the bolts were blown out in that direction, and it is perfectly obvious that the explosion was from that side inward,

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Toomey - direct

is that correct?

THE WITNESS: Yes, sir, that's correct.

MR. MORRIS: Thank you, your Honor. I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Toomey, had you, previous to November 12, 1968, conducted similar investigations on other vessels that had been disabled by reason of unexpected demolition equipment? In other words, had you ever before looked at a vessel that had a hole in it that somebody thought was related to or resulted from an explosion caused by some external explosive force?

A No, sir.

Q Have you, in the course of your training and your experience, encountered vessels of war, for instance, that have received direct hits from torpedoes or perhaps been damaged in a mine field?

Toomey - direct

A Have I conducted the investigation on it?

Q Yes, sir.

A No, sir.

Q Have you seen such vessels?

A Yes, sir.

Q Can you tell me if that was a frequent occasion or an occasional thing?

A This is an occasional thing.

Q Do you know whether or not, based upon your experience and training and based upon your personal or professional knowledge, there were any indications to be found in the hold of the vessel, in the engine room of the vessel or in any other place in, about or around the vessel, the COROMOTO, indicating the nature or the type of device from whence the explosion came?

A No, sir.

Q Nothing?

A Nothing.

Q Do you know the route of travel that the COROMOTO had pursued prior to the point of the

Toomey - direct

explosion--where it had been and where it was coming to?

A It had left San Juan previous to this. I can't give the exact time, but it had been berthed at San Juan, and the explosion took place while at sea.

MR. GREENSPAHN: Thank you, sir.

I have nothing else.

MR. MORRIS: No redirect.

THE COURT: All right. Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

LUIS GARCIA,

called as a witness on behalf of the Government, having first been duly sworn, was examined and testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Luis Garcia, 2628 Avenue Q,

Garcia - direct

Galveston, Texas. My occupation is I am employed for a steamship agency, traffic clerk.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Were you so employed in May and June of this year, sir?

A Yes, I was.

Q Where were you, sir, at that time? Where were you working?

A Well, at that particular time I was working in Galveston. I was working the vessel MIKAGESAN MARU which was at Pier 40.

Q When you say you were working it, what does that mean, sir?

A Well, I was following the loading operations; in other words, the process of the loading operations. I was waiting to be notified that the operations had been completed so that I could order pilots, et cetera, to sail the vessel.

Q Did anything unusual occur, sir, with regard to that vessel?

A Yes. I was called in and told that--

Garcia - direct

Q Do not relate what you were told, sir. You received a phone call. What did you do as a result of that, sir?

A Well, when I was told there was an explosion on the vessel, I immediately went to the vessel and investigated, checked with the master and the chief mate.

Q What did you personally observe, sir?

A I went with the chief mate down into the afterpeak tank to see for myself what had happened. And I observed that there had been an explosion in the afterpeak tank, in the rudder trunk which houses the rudder post, blowing a fairly good size hole into the afterpeak tank.

Q Will you give us a description in size, in feet or some other measure?

A Of the hole?

Q Yes.

A I would say roughly about ten feet.

Q In diameter?

A In height; and about four or five feet in width.

Garcia - direct

Q As a result of that explosion, did any water enter the ship?

A No. This was above the waterline at the time. The vessel was light and it was above the waterline.

Q Was the vessel able to proceed from Galveston on schedule?

A Not on schedule, no. She was delayed until the following day, after which they had to burn away some of the steel, part of the bulkhead that was in the way of the rudder so that she could maneuver. And she did proceed to Houston where the repairs were carried out.

MR. BIERMAN: I have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Garcia, how long from a matter of minutes was it from the time that the explosion was reported to you until you arrived at the scene of the explosion?

A I would say about ten minutes.

Garcia - cross

Q When you arrived at the scene, by whom were you greeted? Who else was there?

A I went aboard the vessel immediately, and the master of the vessel and the chief mate had just come up from the part of the vessel where the explosion occurred. And they are the first ones that I talked to.

Q Were you conversing with them in the English language?

A In the English language, that's correct.

Q Did you notice at that time approximately how many members of the crew were then present on the vessel?

A I don't recall the number. I would say practically the entire crew was aboard the vessel. There were some, of course, on deck.

Q What is the usual complement of the vessel, as you know it?

A The number of the crew members is approximately forty-two. I have a crew list here.

Q Were they all Japanese nationals as you recall?

Garcia - cross

A That's correct.

Q Now, sir, had there been any activity on the dock loading to that vessel and unloading from that vessel during her berth in Galveston?

A Yes, there had been. She commenced loading at seven o'clock that morning and was in the process of loading when the explosion occurred.

Q By whom was the vessel being loaded?

A She was being loaded by members of the ILA local in Galveston under the supervision of Strachan Shipping stevedores.

Q How many stevedores were there?

A Well, stevedores, as we know, are supervisors. The longshoremen, there were five gangs, as I recall, working. Well, excuse me. At the time of the explosion there were only three gangs working, which were on the forward end of the vessel. The other two gangs that were working in the after end of the vessel had completed their loading operations.

MR. BIERMAN: Your Honor, I am going to object to this line of questioning. We have not offered this witness to show who caused the explosion.

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Garcia - cross

This is what the cross examination seems to be about.
It seems rather irrelevant to me.

THE COURT: I will permit counsel to
continue. Go ahead.

BY MR. GREENSPAHN:

Q Finally, Mr. Garcia, how long have you
been in the shipping industry in Galveston, Texas?

A Sixteen years.

Q During that period of time have there
been labor disputes on the docks?

A What do you mean by labor disputes?

Q The ILA or other stevedoring or
longshoremen unions pulled off the job?

A There have been, of course, strikes,
ends of contracts expired, and negotiation of strikes,
as we all know, that have been experienced throughout
the years, yes.

Q When you came to the scene of the
explosion itself, did you find any debris or any
equipment of any type whatsoever that you could
associate with the explosive device?

A No, none whatever.

Garcia - redirect

MR. GREENSPAHN: Thank you, sir. I have nothing else.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Was there a strike at that time?

A No, there was no strike at that time.

Q Had there been one right before or right after?

A No, there had not been.

Q Do you know what the flag of the MIKAGESAN MARU is?

A The Japanese flag.

MR. BIERMAN: Thank you. Nothing further.

THE COURT: Thank you. You may be excused.

(Witness excused)

THEREUPON--

FRED H. HALLBAUER,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full

Hallbauer - direct
name, address and occupation.

THE WITNESS: Fred H. Hallbauer, 1130
Southwest 22nd Street, Miami. Marine surveyor.

DIRECT EXAMINATION

BY MR. KLEIN:

Q What is a marine surveyor?

A A marine surveyor is a person who
inspects floating equipment for underwriters,
classification societies and individuals.

Q How long have you been a marine
surveyor?

A My first survey was made in 1926. And
I was a surveyor on a part-time basis from then until
1941; and since then I have devoted my entire time to
it.

Q Do you hold any licenses of any kind?

A Yes. I have an unlimited chief
engineer's license issued by the United States Coast
Guard as chief engineer of any American steamship
flying the United States flag.

Q In the course of your duties, do you
inspect vessels for damage of any kind?

Hallbauer - direct

A Yes.

Q What kind of damage have you seen on vessels in the course of your experience?

A Anything and everything that happened to a ship.

Q Have you ever testified before as an expert?

A Yes.

MR. KLEIN: I will offer Mr. Hallbauer as an expert.

MR. GREENSPAHN: I have no objection to Mr. Hallbauer's qualifications.

THE COURT: Go ahead.

BY MR. KLEIN:

Q Mr. Hallbauer, did you have occasion to examine the GRANWOOD?

A Yes.

Q When and where did you first see that vessel?

MR. GREENSPAHN: If it please the Court, I would object to any testimony relative to the GRANWOOD because of there not having been

Hallbauer - direct

established a corpus delicti with reference to the GRANWOOD or, for that matter, with reference to any of the other vessels. And until such time as a corpus delicti is established, any testimony by a marine surveyor becomes immaterial and irrelevant.

MR. KLEIN: This is not the rule in Federal Court. Furthermore, I think we have sufficiently connected the necessary elements on this question.

THE COURT: All right, sir. The objection is overruled. Proceed.

BY MR. KLEIN:

Q Did you have occasion to see the GRANWOOD, Mr. Hallbauer? And if so, when and where did you see it?

A Well, I saw her laying in Miami Harbor or while she was discharging cargo. I merely saw her laying at the dock. I had nothing to do with her.

Q Where did you see it again after that?

A At anchor down off Key West.

Q Under what conditions did you see the

Hallbauer - direct

GRANWOOD at that time?

A Well, I went down there because her engine room had been filled with water, and there was a question on the best procedure to get her into port; and for the underwriters, also, for classification.

Q When did you see it in Key West? Do you recall the date?

A May I refer to my notes?

THE COURT: Yes, sir, if you have them.

THE WITNESS: On May 7, 1968.

BY MR. KLEIN:

Q Did you go on board?

A Yes, sir.

Q What did you see on board?

A Well, I found that the engine room had been flooded.

Q About how many feet of water would you estimate?

A I don't know as I could say how many feet of water were in the engine room, but she was

Hallbauer - direct

flooded up to the top of the main engines which, for a guess, would probably be 25 to 30 feet.

Q What else did you see there at that time? Was there anything else that you are able to see?

A The No. 5 hold had been filled with water to about 20 feet, but both spaces had been pumped out prior to my boarding the vessel.

Q Did you have occasion to see the vessel after it had been pumped out?

A The engine room and hold were pumped out before I boarded the vessel.

Q What did you observe in the engine room and in the hold?

A Well, the engine room was completely coated with oil that had floated on top of the water and had followed the water up. And it went down again when they pumped her out. And the hold had been full of water and at least 20 feet of water in there. And the newsprint had swelled up.

Q What sort of newsprint?

A Newsprint in rolls for printing

Hallbauer - direct

newspapers.

Q Was that part of the cargo?

A That was the cargo.

Q What else did you observe?

A Well, I found damaged pumps--a damaged pump. The auxiliary machine on the starboard side of the engine room had been displaced, and the tank top had been displaced and pulled upward, so that there was a slight leak at that time. The main leak had been repaired by a diver before I got there.

Q Where is it in relation to the front or the back of the ship, if you are able to tell?

A Where had the explosion or damage taken place?

Q Yes.

A It was in the stern. It would be in the afterpart of the vessel.

Q Based upon your experience did you form an opinion as to what the cause of that explosion was?

A Well, I don't know that I can tell you what caused it except that it was an external

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Hallbauer - direct

explosion.

Q How were you able to determine that?

A By the fact that the tank top was set upward. The floors in the double bottom where they could be seen were set upward and bent, buckled. The machinery in the engine room had been set up and set to one side and broken.

Q What was done with the vessel after that, if you know?

A Yes. I approved the vessel to be towed to Mobile for discharge of the balance of the cargo and drydocking for examination.

Q Mr. Hallbauer, did you also have occasion to see the vessel, the CARIBBEAN VENTURE?

A Yes.

MR. KLEIN: I will withdraw the last question. I have nothing further.

THE COURT: All right. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Hallbauer, all together how many

Hallbauer - cross

times were you on board the vessel the GRANWOOD?

A I was aboard once.

Q Just the one time and that was at sea?

A That was at where?

Q The vessel was in the water at the time? That was not after it was taken in drydock?

A No. She was laying at anchor afloat.

Q She was afloat at that time?

A Yes, sir.

Q Did you at any time subsequent to that time have any further opportunity to observe the vessel either afloat or on shore?

A The only time I saw her after that, I was flying from Freeport to Nassau and looked out of the plane and saw her at the end of a towline headed for Germany.

Q Or England?

A I don't remember which it was.

Q Did you, in the course of your duties as a surveyor, ultimately speak to Special Agent Gilbert E. Todd of the Federal Bureau of Investigation?

A I'm afraid I couldn't hear you.

Hallbauer - cross

Q Did you, as a marine surveyor, after you had been on board the vessel the GRANWOOD speak to Special Agent Gilbert E. Todd of the FBI?

A Yes, I believe that was his name.

Q Did you at that time, sir, advise him that because of the high seas at the time that you were aboard the vessel and the fact that the explosion had occurred below the waterline you were required to conduct a very cursory examination of the vessel?

A No, I don't remember anything like that.

Q Did you also tell him at that time, sir, that the explosion might well have occurred from the outside of the hull of the engine room rather than from the inside, but you could not make a definite determination along those lines until the ship was placed in drydock and a more thorough examination undertaken by you?

A No, I don't remember that conversation. It was my opinion from the very beginning that it was an external explosion.

Q May I see your records? Is there

Hallbauer - cross

anything else other than these you have handed me?

A Yes (handing documents to Mr. Greenspahn).

Q Is there any indication on any of these instruments that you have that the explosion was an external explosion as opposed to an internal explosion?

A Can I read this?

THE COURT: Yes, go ahead.

THE WITNESS (reading): "It is further stated about 7:00 a.m. on May 4 while the vessel was near Cosgrove Shoal west of Sand Key an explosion took place apparently under the hull of the vessel under the starboard side of the engine room space, following which the engine room became flooded to sea level and water apparently entered No. 5 hold from the engine room to a depth of 20 feet."

BY MR. GREENSPAHN:

Q Did you form an independent conclusion,

Hallbauer - cross

sir, based upon your examination of the vessel, as to whether it was an internal or external explosion?

A Yes. My opinion is it was an external explosion.

Q Did you--

A From the fact that the tank top was set upward and the machinery on top of the tank top had been displaced and the floors in the tank had been buckled and set up.

Q At the time that you examined the vessel, was the vessel at anchor in high seas?

A Well, now, what do you mean by "high seas"?

Q Seas that were enough to cause the vessel to be jostled about?

A It can be what?

Q Seas that were sufficient, enough to cause the vessel to be jostled about so that you could not have a--

THE COURT: Was the vessel in port or was it out on--

THE WITNESS: The vessel was at anchor

Hallbauer - cross

off the Keys, and she was laying pretty quiet with the salvage tug alongside, and it was quiet enough so that we could go alongside, and I got aboard the vessel from the pilot boat with no difficulty at all. So far as I am concerned, the weather was good.

BY MR. GREENSPAHN:

Q Did you report all that you have told us today in essentially the same fashion to the FBI agent, Mr. Todd, that you spoke to?

A We discussed it sitting in the captain's room and--yes, I think probably the same.

MR. GREENSPAHN: Thank you, sir. I have nothing further.

THE COURT: Redirect?

MR. KLEIN: No further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

MR. GREENSPAHN: Your Honor, may we approach the Bench?

THE COURT: Yes, sir.

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury:)

MR. GREENSPAHN: In accordance with the Court's instructions, I have been provided with the Form 302 of Mr. Hallbauer relating to the GRANWOOD, and I have the report made by Special Agent Gilbert Todd, and it is completely to the contrary of what this man has testified to. I don't know how that can be rectified except by bringing Mr. Todd under our subpoena before the Court. I don't know if Special Agent Gilbert Todd is susceptible to process at this time. I don't know where he is now or how I am going to get him here.

MR. KLEIN: Your Honor, this is not completely contrary. This happens quite often. These are merely summaries that we give to counsel. They are not a sworn statement in any way. It is actually the agent's internal memorandum, but we, in absolute compliance with anything that might be considered a Jencks statement, turned these over.

The mere fact that there seems to be some variation between what the agent reported in his personal memorandum and what the witness has testified to is no reason to bring up an issue as to whether or not the credibility--

MR. GREENSPAHN: It goes to the credibility either of the agent or of the witness, one or the other.

THE COURT: Where is this agent?

MR. KLEIN: He is in Key West. We are going to have another witness on this ship, and I do not think it is going to make any difference at all.

THE COURT: Well, I might say--

MR. GREENSPAHN: In that case, why did you put this witness on in the first place?

THE COURT: Under the circumstances, if counsel for the defense wants to recall this witness, I will permit him to call him and I will instruct you to have him available.

MR. KLEIN: All right, sir. Thank you.

MR. GREENSPAHN: Thank you. I do want him.

(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had in open Court:)

THEREUPON--

HENRY I. MARTIN,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Henry I. Martin, 1235
Grandview Drive, Jacksonville. Marine surveyor.

DIRECT EXAMINATION

BY MR. KLEIN:

Q By whom are you employed as a marine
surveyor?

A Salvage Association of London.

Q What, in particular, is the Salvage
Association of London?

A A group of surveyors representing
British Marine Underwriters.

Q How long have you been so employed?

Martin - direct

A About fifteen or sixteen years.

Q What is your background in this particular area?

A Do you mean my full history?

Q Yes, if you would.

THE COURT: Well, not necessarily the full history, but what he wants to find out from you is what experience and training have you had as a marine surveyor?

THE WITNESS: Sixteen years with the Salvage Association of London, examining all marine damage claims for them.

THE COURT: Do you have any papers or licenses?

THE WITNESS: I have a British chief engineer's certificate.

THE COURT: And you have engaged in this work, you say, for sixteen years now?

THE WITNESS: Yes, sir.

THE COURT: Approximately how many vessels have you, in your opinion, surveyed or examined during that period of time?

Martin - direct

THE WITNESS: I would guess somewhere between four thousand and six thousand.

THE COURT: I hold he is qualified.

Go ahead.

BY MR. KLEIN:

Q Mr. Martin, did you have occasion to see the vessel the GRANWOOD?

A Yes, sir.

Q When and where did you see it?

A In Mobile, both afloat and on dry-dock.

Q Do you recall when that was?

A Can I look?

THE COURT: Yes, sir. If you have some notes, you can look at them.

A On May 14-15.

THE COURT: Of what year?

THE WITNESS: Of this year.

BY MR. KLEIN:

Q Did you go aboard the vessel?

A Yes, sir.

Q What did you observe?

Martin - direct

A She had severe damage in the engine room from flooding. Externally on the hull, the hull plating was badly indented and holed. The engine room accommodations were covered with oil and water. There were castings and platings broken and distorted.

Q How many of these platings were indented or distorted?

A May I look?

THE COURT: Yes, sir.

A There were fourteen plates involved.

BY MR. KLEIN:

Q Were you able to determine the cause of this damage?

A My opinion was that was caused by an external explosion.

Q Upon what do you base your opinion?

A From the fact that the shell plating was set in from the outside. The internal structural members were severely distorted, blown awkward. The castings and machinery in the area had completely broken.

Q Did you make any estimate as to the

Martin - direct

amount of damage that the vessel incurred?

MR. GREENSPAHN: Objection.

MR. KLEIN: May we approach the Bench on this point, your Honor?

THE COURT: Yes, sir.

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury:)

MR. KLEIN: Your Honor, the amount of the damage involved is relevant as to whether it was de minimis damage or what it was.

THE COURT: It does not make any difference whether it was \$1,000 or \$100,000.

MR. KLEIN: It goes to whether or not the intent was to do damage to their business.

THE COURT: I do not buy your argument.

MR. KLEIN: He has shown on cross examination as to one of the vessels that the damage done to the POLANICA was quite minimal or he attempted to.

THE COURT: He may have, and there was no particular point made of it. If I permit you to go

Martin - direct

into the damage, I will permit him to go into the question of whether it was covered by insurance or not.

I am not going to do that, gentlemen.

As far as I am concerned, the fact that you have had external explosions and the ship was damaged is sufficient, and the amount of it is immaterial.

(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had in open Court:)

BY MR. KLEIN:

Q Did you also have occasion to see the vessel CARIBBEAN VENTURE?

A Yes.

Q When and where did you first see that vessel?

A Lying afloat in Miami, and later on in drydock in Jacksonville.

Q Do you know when it was that you saw it in Miami?

A On August 10-11.

Martin - direct

Q Did you go aboard the vessel?

A Yes, sir.

Q What did you observe?

A Similar damage to the GRANWOOD, as I just explained to the GRANWOOD, and the engine room castings were broken and the engine room was flooded with oil and water.

Q Were you able to determine the source or the cause of this explosion?

A The cause again was similar, from an external explosion and in the vicinity of the sea chest below the engine room.

Q Will you continue?

A The sea chest was originally constructed almost square or rectangular, and after the explosion it was almost circular. It apparently had been blown outwards.

Q What was done with the vessel after that, do you know?

A It was patched and pumped out in Miami and towed to Jacksonville, placed on drydock there. We did some additional structural repairs in the way

Martin - direct

of placing steel on the bottom to stiffen it, and then we towed it to Europe.

Q Did you take any photographs of the damage on that vessel?

A Yes.

Q May I see them, please?

A (Handing photographs to Mr. Klein)
These photographs were taken by the chief engineer of the vessel.

Q Are you able to recognize those photographs?

A Most of them. I have marked them.

Q Do they accurately depict what you saw on that particular time?

A Yes.

Q And would you explain them, please, generally?

A One is a photograph here of destroyed piping valves and the tank top area above the sea chest where the explosion occurred.

The next one is similar, looking down into this main sea chest.

Martin - direct

This one here is of a starboard generator forward of the sea chest, and the remaining switchboard.

And another one looking down into the destroyed sea chest. The other one is of the sea chest; another one of the switching--the area of the explosion looking starboard to a switchboard, a fractured main turbocharger feed. These are on the main engines. This is one that I couldn't identify. Broken main lube oil pump castings.

Q Hold out the one that you could not identify.

A There is another one here I couldn't identify. It's too dark. This is one of the sound-proof alarm systems in the engine room, which is completely destroyed. Another one, the main sea chest and tank top.

This is what remained aboard the vessel.

Q We do not need that.

A A generator end cover which was blown off. And these are two photographs on the deck of the

Martin - direct
vessel.

Q Is this your writing on top of each of these photographs?

A Yes.

Q You have marked each one with what you have just said?

A Right.

MR. KLEIN: We offer these as a composite exhibit.

MR. GREENSPAHN: No objection.

THE COURT: They will be admitted.

(Thereupon the photographs referred to were received in evidence as Government's Exhibit No. 40.)

MR. KLEIN: I have no further questions.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Martin, the CARIBBEAN VENTURE was how old at the time you saw it in August?

A I believe about two months.

Martin - cross

Q A brand-new vessel?

A Yes, sir.

Q On these photographs--and I recognize the clerk has yet to mark them--but if I may, on these photographs of the interior of the vessel that you produced for us, it would appear that there were markings upon the surfaces of the metal or the metallic instruments and machines and on the vessel notwithstanding the damage done to the particular machines, and the area was in some sense reminiscent of a much older vessel.

A That is how it would look now.

Q That is how it does look now?

A Yes, sir.

Q Now, when you came to the vessel for the first time in August, was that the first time that you had ever been aboard the vessel?

A Yes, sir.

Q Do you know what, if any, damage had been done to the vessel either by its crew or otherwise prior to the time of the alleged explosion?

A I know of none.

Martin - cross

Q This sea chest that you have talked to us about, was this the containing or the consigning area of the source of the explosion?

A Well, the sea chest is immediately above the sea strainer. I assume the explosion came through the strainer into the sea chest.

Q You are assuming that. Do you have any basis, based upon the physical evidence as you observed it, to draw that conclusion?

A We did find one of the sea strainers which was heavily indented set up and on bottom, and I believe in a small area of it there were marks where the metal was burned.

Q Now, sir, had you, prior to your examination of that sea strainer, ever seen that particular sea strainer before?

A Never.

Q Where in relationship to the hull of the vessel is the sea strainer, the particular sea strainer that you are referring to? Where is it located?

A Can I refer to my notes?

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Martin - cross

Q Please, sir.

A I have some drawings here if you can use a few prints.

Q If they help to answer the question, they might be of some help.

A It was on the bottom of the vessel, actually. It is just to one side of the center line in the engine room and immediately next to the generators. It is in a separate compartment from the main engines.

Q In lay language, is it at the bottom of the vessel?

A Bottom of the vessel.

Q Not on the side?

A Oh, no, no. Immediately on the bottom.

Q If for some reason this vessel were to have been in a position where it encountered any object under it that made contact with its underside, that could well account for the indenture or the dent that you observed on the sea strainer, could it not?

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Martin - cross

A It could have caused a dent on the sea strainer, but not the burning of the sea strainer.

Q Now, when you say the sea strainer was burned, what observations did you make that indicated that it was, in fact, burned as opposed to otherwise damaged?

A I don't quite understand.

Q How do you know it was burned? It was damaged.

A You could see the metal burned. There was a visual examination.

Q Did you see bent metal burned? Does it look different, Mr. Martin, from ordinary metal?

A Instead of being clean, smooth castings, you had small pieces of it burned out, blobs of metal where it melted.

Q Can't you assume as easily that there may have been an imperfection in the sea strainer at the time of its original insertion into the vessel?

A No.

Q Or in the absence of any other reasonable

Martin - cross

cause?

A No, sir.

Q You cannot?

A No.

Q Why not?

A When a vessel is constructed, it is constructed with all of the necessary regulatory bodies present and these things are thoroughly gone over. This would have never passed a classification society survey.

Q You do not know, in fact, who the surveyor was or what the place or what the circumstances were at the time the survey was made?

A No.

Q Now, did you find any evidence in the course and scope of your investigation of the specific cause--that is, other than an explosive source--of the explosion?

A There was a small piece of metal found.

Q Where?

A I believe it was found under the bottom

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Martin - cross
of the ship while she was afloat.

Q Did you see this or is there something you later became aware of?

A I saw a piece of metal on the deck of the vessel.

Q On the deck of the vessel after it had been brought up by somebody else?

A Yes.

Q Will you describe to us what that piece of metal looked like--its dimensions and type of metal, if you know?

A Roughly, six or eight inches by about two or three inches, jagged edges on it.

Q Do you know what that piece of metal was or where it came from?

A I don't know where it was from, I don't know what it was, no.

Q Where, at what part or at what place in the port was this piece of metal found?

A It was found immediately below where the explosion took place.

Q Where was that, sir? Was that here in

Martin - cross

the City of Miami?

A In Miami, yes, sir.

Q Was that at Dodge Island?

A Dodge Island, yes. It was at the pier where she was pumped up. I have it here if you want the actual--

Q It is not necessary.

Have you, sir, ever been on the bottom of that pier or at any pier in this or any other shipping center?

A No.

Q You do not know what is on the bottom?

A No.

MR. GREENSPAHN: Thank you, sir. I have nothing else.

THE COURT: Redirect?

MR. KLEIN: No redirect.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

Murray - direct

THEREUPON--

ROBERT MURRAY,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Robert Murray, 18 Adler
Circle, Galveston, Texas.

I am a private marine surveyor.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q How long have you been so employed,
Mr. Murray?

A About fifteen years.

Q Have you received any special training
in marine surveying?

A Yes. I am a graduate of the Merchant
Marine Academy at Kings Point, New York, with a degree
in marine engineering. And about fifteen years of
private survey work.

Q About how many ships would you estimate

Murray - direct
you surveyed in that time?

A I would say probably between seven hundred and eight thousand.

Q Did you, sir, have an opportunity to inspect a vessel called the MIKAGESAN MARU?

A Yes, I did.

Q When and where was that?

A This was at Galveston, Texas, on June 1, 1968.

Q What did you find?

A The vessel had had an explosion in the after end near the rudder trunk and in the afterpeak tank area.

Q Can you describe the explosion, sir, or the results of the explosion?

A The damage consisted of several shell plates on the starboard side buckled out and torn, the rudder trunk buckled and torn, and holed from top to bottom; extensive damage to the internal structural framing of the vessel in the way of the afterpeak tank.

Q Were you able to determine the source of the explosion, whether it was internal or external?

Murray - direct

A From looking at the damage, it appeared to me that the explosion had occurred in the rudder trunk and had blown into the afterpeak tank and out through the side of the ship.

Q Did you detect anything else, sir?

A There was a smell of some type of explosive odor in the vessel at the time that we went inside.

Q Did you examine the implements which were regularly aboard the ship to see if any of them had exploded?

A Well, yes. There hadn't been anything on the ship that had exploded. None of the equipment on the ship had exploded.

Q Can you give me the date this occurred?

A This? The explosion occurred, according to the ship records, at 3:15 in the afternoon on June 1, 1968.

Q When did you come aboard, sir?

A I went aboard about five o'clock that afternoon.

Murray - direct

Q Did it appear to be a fresh explosion to you?

A Yes, it was.

MR. BIERMAN: I have nothing further. You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Murray, you say the explosion occurred in the rudder trunk. Where is the rudder trunk on the vessel?

A The rudder trunk on this particular vessel is the access opening that the rudder stock passes through from the rudder into the steering room.

Q How is that accessible? Is that accessible from the outside or the inside?

A It is only accessible from the outside.

Q That apparently is where this occurred?

A That is what it appeared to me, that there had been an explosion in that location and it had blown into the afterpeak tank and the sides of the ship had been blown out.

Q Did you examine the rudder of the

Murray - cross

vessel?

A Yes.

Q Was there any damage done to the rudder?

A Not that I could determine. The vessel was not drydocked at that time.

Q Finally, when you got to the point of the explosion, did you observe whether any work was being done by any of the crew or any other persons at the place of the explosion? Were they doing anything?

A No. As far as I could tell, there wasn't any work in progress, sir. There didn't appear to have been anything.

Q Would you have described the odor that you described as gun powder as a strong or weak odor?

A Well, it was a rather weak odor. The tank that it penetrated was a water tank, and it had been reportedly full of water, and when it was penetrated, the water flushed out through the opening in the side of the ship, and we assumed that whatever odor had been in there may have been evacuated in that manner.

Murray - cross

Q That is an assumption. That is really unsupported by anything factual that you observed, is it not, sir?

A That is true, yes.

MR. GREENSPAHN: Thank you.

THE COURT: Redirect?

MR. BIERMAN: No redirect.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: We will take a recess for about ten minutes. The same instructions are, of course, still applicable.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

MR. BIERMAN: Your Honor, the Government would offer into evidence at this time Government's Exhibits Nos. 27, 28, 29, 30 and 30-A.

THE COURT: The objections of the defendants heretofore made will be noted. Are there any additional objections?

MR. GREENSPAHN: No, sir. I have stated them.

THE COURT: They will be noted by the Court and they will be overruled and the tapes will be admitted into evidence.

(Thereupon the tapes referred to were received in evidence as Government's Exhibits Nos. 27, 28, 29, 30 and 30-A, inclusive.)

MR. BIERMAN: I will recall Mr. Morales.
THEREUPON--

RICARDO MORALES NAVARETTE,
recalled as a witness, and having previously been duly sworn, resumed the stand and testified further as follows:

THE CLERK: Please state your full name for the record.

THE WITNESS: Ricardo Morales Navarette.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Morales, you previously testified

Navarette - direct

to having had a tape recorder upon your body and you recorded certain tapes; is that correct, sir?

A That's correct, sir.

Q Thereafter did you have an opportunity to listen to these tapes?

A Yes, sir.

Q Where was that, sir?

A At the FBI office, sir.

Q Did you, during the course of that time, sir, identify any of the voices on the tapes?

A Yes, sir.

Q To whom did you identify them?

A Mrs. Saliba and Agents Grogan and Agent Dawson.

Q And after these were identified and a transcription was prepared, sir, did you compare that with listening to the tape?

A That's right, sir.

Q Was there anything--is this how you made the identification?

A Yes, sir.

MR. BIERMAN: No further questions.

Navarette -

THE COURT: All right, sir. Is there any cross examination?

MR. GREENSPAHN: May we approach the Bench, your Honor?

THE COURT: Yes, sir.

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury as follows:)

MR. GREENSPAHN: One thing has been called to my attention earlier this morning, and I would ask the Court for a clarification of your prior ruling about Mr. Morales. He will be made available to me, I understand?

THE COURT: Absolutely.

MR. GREENSPAHN: Of course, I understand that when he goes on as part of my case, he cannot be put on for the purposes of impeachment.

What I would like to find out from the Court is whether I will then be permitted or if I can now be permitted to inquire of him as to an incident that allegedly occurred this morning where

he threatened a newsman relative to the publication of certain notes that were made in the course of the trial yesterday. I think if I can do it, then I will not do it now.

THE COURT: Well, I would prefer for your initial questioning to be done out of the presence of the jury. I will permit you to do it, but I would prefer, in the first instance, that it be conducted out of the presence of the jury.

MR. GREENSPAHN: You don't care whether it be done today or--

MR. BIERMAN: If he wants to do it right now, he can.

THE COURT: I do not care about a time limit, because I am giving him the privilege to do it. I am going to permit him to do it.

It is an incident that I do not know anything about at all. I am saying I will permit him to go into it, but I want him to do it initially outside the presence of the jury, because I do not know how the thing is going to develop or anything else, and I do not want a situation to occur where, if we get into something in the presence of the jury that is

normally not admissible or anything, conceivably it could result in a mistrial at this point. And I think that to protect everyone's rights, it should be a preliminary questioning and then we can proceed from there.

I have told counsel he has my permission to do it. And if it is agreeable with him, we will go ahead and proceed with this thing and then if he wants to, on Monday morning we can start with it then.

MR. GREENSPAHN: That's fine, sir.

THE COURT: All right, sir.

I want the record to further show that this inquiry is not being made or done as a witness for Mr. Greenspahn's clients. In other words, he is not calling him for the purpose of offering him as a witness on his behalf so far as any of this questioning is concerned.

MR. GREENSPAHN: I have no questions of this witness at this time.

THE COURT: You may be excused.

(Witness excused)

Saliba - direct

THEREUPON--

SOPHIA SALIBA

recalled as a witness, and having previously been duly sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mrs. Saliba, you have previously testified. At this time I would ask you whether you have had an opportunity to listen to certain tape recordings.

A Yes, sir, I have.

Q I call your attention to what has been marked Government's Exhibit 27 in evidence and ask you if this is one of the tapes you listened to.

A Yes, this is.

Q Did you prepare a transcription and translation of that tape?

A Yes, I did.

MR. BIERMAN: I believe, under the previously agreed procedure, the tape will be played at this time?

Saliba - direct

THE COURT: All right, sir. They will be played with this explanation:

Ladies and gentlemen of the jury, I have admitted these tapes in evidence. However, the tapes contain a considerable amount of matter which I have deemed not material or relevant to this case. The tapes are in Spanish; and since none of you speak Spanish, it will not make much difference, but those parts which I have admitted into evidence will be translated by the lady. But so that you will understand, there will be parts that go on that you will not hear anything about or at all. They are parts which I have held are not relevant or material to these charges at all and have nothing to do with this case.

The fact that it is not translated in its entirety, you are not to draw any inferences at all from that. There is nothing being held from you that I do not feel is not material or relevant.

You may proceed.

BY MR. BIERMAN:

Q Do you know when you were told there

Saliba - direct

was a recording, just for the purpose of identifying this exhibit?

A I believe September 30. I am not positive.

Q Will you examine the exhibit and look?

A 9-26-68. The tape was recorded at this time.

Q That is Exhibit No. 27?

A Yes.

Q Did you attempt to transcribe or translate that first section of tape?

A No, I did not. There was too much interference there--background noise--and I couldn't get it clearly enough. I am beginning at about this point here (indicating).

Q Thank you.

Mrs. Saliba, can you tell us how you prepared your transcriptions and translations of these tapes?

A First I listened to the tapes about two or three hours all the way through. Then I sat down and wrote what I could hear piece by piece until

Saliba - direct

I had as much as I could get. Then I asked Mr. Dawson, a Spanish-speaking agent, to verify what I had written; and he did so. And then finally we had Mr. Morales come in and listen, also, to make sure that we were getting the right persons saying the right things.

Q And if you had any difficulty with any particular word, what did you do?

A Well, there were a few colloquial expressions that I wasn't--

Q Do you mean in hearing words?

A We played it over and over again until we did get it.

Q Did you use only the naked ear or did you listen with anyone else?

A Oh, we had headsets on. We used three different machines to listen to it, to make sure that we got as much as we could.

Q And did you, in your translations, translate any extraneous noises such as a radio or television?

A No, I didn't. I didn't attempt to.

Saliba - direct

Q I want to ask you, Mrs. Saliba, to return to your own notes and translate what has previously been agreed upon in your presence as relevant portions of this tape and naming the speaker, and just commence to read, starting at Page 4. Start reading with "The bad thing about Orozquito."

A (Reading) "The bad thing about Orozquito is that he is a little, very poorly organized for the plan. He is not tractable. He is a fighter, he is good, he is a fighter, a real fighter. As I see it, it is hard to keep him in certain limits, well, it is difficult to fit him into anything.

"MORALES: He is the one who talked to you about the recoilless that you have, isn't that so? He told me that he had talked to you about the other recoilless that you have.

"BOSCH: Yes, I told him that I was lending it to him. That is the one that is outside." (A few words unintelligible)

Saliba - direct

"MORALES: And they dumped it right there, Orlando?

"BOSCH: Yes, they dumped it right there (words unintelligible) the tide went out. (More words unintelligible) and Marcelino went and checked the next day to see more or less (more words unintelligible). When they were coming there, as they go there, they see the FBI, two cars of the FBI and some frogmen working in that place. They went around (some words unintelligible) and they saw him come out.

"MORALES: So that night they were the ones who first came behind Jorgito, when we came out discouraged looking for the car. Don't you remember?

"BOSCH: It was not they."

"MORALES: Listen, you know why it didn't hit the bridge?

"BOSCH: Why?

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Saliba - direct

"MORALES: When you fire from land, and the missile has to cross over water, the depth in ballistics causes the missile to descend."

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"MORALES: Come now, boy, why did that fellow stay there for two hours, for two hours?

"BOSCH: Oh no, a little boat there came to the other and it went along the whole coast. It was going around like mad.

"MORALES: Ah, that is what Jorgito said, that there was one which was. . .

"BOSCH: (Interrupts) Came back again. (Some words unintelligible) They saw two or three cars which they did not like.

"MORALES: There was no one there.

"BOSCH: Now they felt the stick.

The Spanish one was after this?

"MORALES: No, before, before.

"BOSCH: Carol was there! Carol was in Puerto Rico at the time of the clobbering.

Saliba - direct

Ask him so that you can see the reaction of the people (some words unintelligible). We have those people going crazy.

"MORALES: Orlando, and that matter of your appealing for a million on television--

"BOSCH: (Words unintelligible) playing at revolution, as everybody here is, as we have been, but seriously (some words unintelligible) or I'm locked up in prison. These people are going to kill me (some words unintelligible) or one of those Fidelistas will blow up my house (words unintelligible). I am going all the way (words unintelligible).

"MORALES: What do you think the reaction of the people has been, Orlando? Because everybody is asking me questions, that is, about who the person wearing the disguise is.

"BOSCH: Well, boy, well, when you have these things before the people, the reaction varies, but in general, there is

Saliba - direct

sympathy. Many deeds, Morales. We have hit very hard. One ship, and another ship, and another ship, and another ship (words unintelligible) and the explosion, and the hit there, and the hit here. I believe that we have worked intelligently (some words unintelligible). We have developed this matter intelligently.

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"MORALES: Orlando, what do you think of the press?

"BOSCH: Don't you worry about that. You keep on going ahead, for we will stand behind you. Don't worry. Don't take a step back even to give yourself a pushoff.

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"MORALES: Orlando, eh Orlando, you are not planning to have someone?

"BOSCH: Well, there is that thing, Morales. Financially, we are very weak, brother. Realize that, and now that work which is being done."

Saliba - direct

Q Mrs. Saliba, when you translated that portion, which says "Financially, we are very weak," what is the literal meaning of that?

A The words used were "en panalles." "In diapers," and I interpreted that to mean that they weren't strong financially or they were very weak financially.

Q To your knowledge, does each language have its own idiom?

A Yes, it does. I wouldn't say that it is an idiom exactly but it is a figure of speech that is being used.

Q Continue.

A "Realize that, and now that work which is being done. Money is always (some words unintelligible). The Municipality of Santa Clara has come already and agreed to give me two hundred dollars. The other also in seven or eight days. Some people in a factory I'm going to see there have a fund of a thousand bucks which they are going to give us in a few

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Saliba - direct

days. Do you realize that? If we cannot do it and we spend all our pennies up to the day of the cannon blast, we only had enough with us for coffee with milk, or whatever it might be, and besides, since I have them watching me, well, I have not paid much attention to that thing. But I am going to do it, brother."

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"BOSCH: And did you see the people, 'Cuban Power! Cuban Power! Cuban Power!' The shouting! Didn't you hear the cable over the radio?

"MORALES: Did you see Rivero saying that the matter of the cannon blast was something Don Quixote would do?

"BOSCH: Ah, yes, praising it but calling it an extravagant action, when the extravagant actions were really theirs.

"MORALES: Yes.

"BOSCH: Damn, hell. I regret that all the bazooka shots they fired there were

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Saliba - direct

the ones I gave them. I have five or six bazooka shells left, as you know, because I gave those people about four or five.

Dum jerks and all the trouble I went to for these perverts.

"MORALES: The impact on the ship was at the very center, Orlando.

"BOSCH: Yes, yes. You who are on the inside, for a man who has never done any firing, the truth is, dammit, it was a damn good job. The moral value that we attached to that was that it was a daring thing, you, that thing, dammit, to send the shot over the heads of the Coast Guard. Ay! I told the people many things, and there were two cars with those people riding around, and there were two companions on the beach with a walkie-talkie, and two at the Miami Herald with another walkie-talkie. It was we, and they were going around there and passed by, hell, it was a drama well thought up, and when two cars passed there

Saliba - direct

'in about five minutes the cannon was fired, and the Coast Guard responded with machine guns, and, dammit, all that, it must be told, yes, my buddy, Morales, with what did we win the other war?

"MORALES: Propaganda.

"BOSCH: With what did we win the other war?

"MORALES: There are, there are those who do not like that. Orlando, didn't they show your documentary on NBC?

"BOSCH: No. If they show that, we've got it made."

Q Is that the idiomatic expression?

A Literally he says "We close up," and that is an idiomatic expression that means that things are so good that they can close up shop, everything has been accomplished already.

(Continuing) "Yes, indeed, that would be the end. I would like you to see those missiles lift off, solid fuel."

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Saliba - direct

"MORALES: Well, I will give you a call in two or three days, Orlando, because you are tied up and all that.

"BOSCH: Yes, brother, give me a call and we will talk. Give me a little whistle and I will sneak over there. Anyway, it does not matter if they see us, because they already know it."

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"BOSCH: About this matter, I will talk to them and will ask them, hell, and will ask them to use their influence on those people there not to put bombs here, for that does me harm. Tell them any kind of story.

"MORALES: Well, they know that, everybody knows that you are opposed to the problem of--

"BOSCH: (Interrupts) They know that our goal is sincere, and that there is nothing false about it, damn it. But what does not please them is the other, for the other is

Saliba - direct

big. Paul Bethel told me that diplomatic pressure--terrible diplomatic pressure was put on by Spain and Japan in Washington really, damn it. Notice that Poland protested gracefully, but Japan and Spain did not protest. Because they are submissive to these people. They are under the boot of Yankee imperialism. Call me in two or three days so that we can chat.

"MORALES: O. K."

THE COURT: That, ladies and gentlemen, completes that portion of the first cartridge which I have ruled to be admissible.

MR. BIERMAN: I am prepared to proceed to the second tape now.

THE COURT: All right, sir.

MR. BIERMAN: I don't propose to play it unless counsel requests it. I don't see any value in it.

MR. GREENSPAHN: Well, play it, please, if you would, because I don't recall the tape.

Saliba - direct

BY MR. BIERMAN:

Q Was the same method used as was used in listening to the first tape? That would be on tape No. 2.

A Yes. In this tape I wasn't sure sometimes who was speaking, because there is another speaker introduced here or two other speakers that I had never heard--Gonzalez and Prieto--and therefore I had to consult Mr. Morales.

Q So your statement is that those are as told to you who was speaking by Mr. Morales?

A That's right, except that I recognized Morales' voice. It is only when Gonzalez and Prieto are speaking that I wasn't sure.

Q And after being told of the voice, Mrs. Saliba, were the others consistent with it?

A As far as I remember, they were.

Q When was that tape transcribed?

A Do you want to know the date that it was transcribed?

Q If you know, yes, ma'am.

A Well, we began the transcription--

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Q I mean when was it taped?

THE COURT: October 2, 1968, wasn't it?

THE WITNESS: No; September 30, 1968.

MR. GREENSPAHN: It is not necessary to play it. I will stipulate it is the tape and we will go into the transcript of it.

THE COURT: Mr. Reporter, please have the record show that counsel have stipulated that we can dispense with the playing of the tapes and proceed with the transcriptions.

BY MR. BIERMAN:

Q I will ask you to begin translating on Page 4.

A There were a few words at the beginning of the reel that I didn't get.

(Reading) "MORALES: In order that they could blow up the Polanica with the apparatus. Then Omar said to him that he was an expert in firing the 57.

"GONZALEZ: Yes.

"MORALES: Then you know the story?

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"GONZALEZ: Yes.

"MORALES: He went around the whole town looking for someone to fire the. . .

"GONZALEZ: A cannon.

"MORALES: A cannon.

"GONZALEZ: Everybody knew it.

There is the story going around that it was, that it was. . ."

And he is interrupted by Morales, but I couldn't get what he said.

"GONZALEZ: (I couldn't get the first part of his speech)--"It was not Chavo."

"MORALES: Because he went around the whole town looking for someone to shoot it. As I told Orlando, 'But, Orlando, come on, you are not still going to put in the hands of these people the instrumentality for an action, are you? That is a hell of a thing, Buddy.'"

Q Mrs. Saliba, is that a literal translation of what is contained there?

A I am just putting in what I think might

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be the equivalent if you weren't using obscene words.

Q Proceed on.

12-1

* * *
A "MORALES: You know that we were confused and thought that Babi and Prieto had gone back because the other, Jorge, appeared. He came around there also. Then we got confused and thought that Babi and Prieto had gone. You learned about our confusion about you the other night, didn't you?
* * *

"PRIETO: No boy (some words unintelligible) what I do not understand is why it did not penetrate, boy.

"MORALES: Because it was fragmentation, and no more. I told him that night (some words unintelligible). There are three types of projectiles: fragmentation, armor-piercing, and (some words unintelligible).

"GONZALEZ: That which penetrates would have been damned good.

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"MORALES: And you know why you did not hit it (some words unintelligible) the superstructure? Because of a very elementary thing, for I did not know where you were going to shoot from. If you shoot from land and the projectile has to travel over water, it descends in accordance with the depth of the water, according to the number of feet it has. Gravity causes the projectile to descend by inches. That was all that happened there, but the shot was perfect.

"PRIETO: It was as difficult as hell. The fellow, brother, yes, indeed, the fellow was moving fast.

"MORALES: The Coast Guard?

"PRIETO: The Coast Guard."

Q In relation to the statement where it says "fellow, brother, was moving fast," what is the Spanish word for "brother"?

A He used the word "mano," which normally means "hand" but among Cubans they sometimes use the

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abbreviated form for "hermano."

MR. GREENSPAHN: Before you continue, I think perhaps there was an error in the reading. Back to the first indicated "Gonzalez" on Page 7, where it reads "That which penetrates would have been (2)" it was translated as "damned good," and I just looked at the list of obscenities and I don't really see the analogy.

THE COURT: No, it is not a literal translation, but if you want it and the lady does not mind giving it--

MR. GREENSPAHN: I just wondered if there isn't something that better describes the idiom than "damned good."

THE COURT: No, sir, it does not mean damned good.

MR. GREENSPAHN: Then we will leave it at that.

THE WITNESS: It could mean "hell of a thing."

MR. BIERMAN: No, I don't think so.
We are getting too close.

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THE COURT: I do not think you can find any equivalent for it.

THE WITNESS: I thought they agreed that I could use a milder expression.

MR. GREENSPAHN: Well, "damned good" isn't mild, in my opinion.

MR. BIERMAN: Then let's give the complete translation if there is some confusion.

MR. GREENSPAHN: If I may, as to the word that has just been used--"mano"--I am curious to know if that word "brother" which she described as "mano" was "monkey." That's the only other thing I can think of.

THE WITNESS: No. It sounded definitely like "mano" to me.

MR. GREENSPAHN: Well, I have no objection.

THE WITNESS: There was no question in my mind.

THE COURT: Okay.

MR. BIERMAN: Am I to understand that counsel does not request a literal translation of

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Gonzalez's first statement?

THE COURT: He is entitled to have it if he wants it.

MR. GREENSPAHN: The Government's understanding is correct. I don't think it is necessary to go into the obscenity.

THE COURT: Then we will proceed on to Page 8.

THE WITNESS: (Reading)

"MORALES: In front and in back.

"PRIETO: In front and in back"--a few words I didn't understand--"stern. When we first arrived there (a few words I didn't understand)--

★

★

★

★

"MORALES: Brother, you are the coolest person that I have seen in recent years, you know, because for you to stay there for two hours with that apparatus, the truth is that I do not have the nerve and the Doctor was in the back seat sleeping. And I said to Paulino, 'Paulino, what I

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would like to do is jump through the roof of the car.' (A few words I couldn't get) when we started to leave, a red Barracuda with a fellow dressed in evening clothes came along the Causeway. (A few words I didn't get) No, you should have shot that fellow in the face. The fellow must have seen you, because when he came to Biscayne, he ran the red light, and he did not know which way to turn, to the right or the left. (And here there are several people talking and laughing at the same time and I couldn't determine who was saying what)

"Forget the matter of the Barracuda, he was running away, and he came and stopped beside us, and that way he ran the red light. He did not know which way to turn, to the right or the left.

"PRIETO: When I was there about ten minutes, a fast little boat arrived.

"MORALES: Yes.

"PRIETO: Yes, and it was going at a

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hell of a speed.

"GONZALEZ: After you or before?

"PRIETO: No, no, before. After we had already been there around ten minutes, then the boat started to make its run.

"PRIETO: There was a hell of a going to and fro.

"MORALES: What I do not understand is the length of time you were staying on the Causeway on the 'No Fishing' side, why is it that a patrol car did not arrive there and stop you? Furthermore, when we made a turn the first trip, there was a car, and a Miami Beach patrol car, giving a ticket to a fellow who was about six or seven blocks away from where you were.

"PRIETO: Below us?

"MORALES: Below, close to Star Island. It had a light.

"PRIETO: Yes, yes, yes, yes, I remember now. A patience there of Job. I thought that my nerves would snap.

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Waiting, waiting, and it was moving, and afterwards a pile of cars kept coming.

(Some words I didn't understand)

"MORALES: And what were you waiting for? For the little boat to leave?

"PRIETO: The little boat left about... It stayed no more than five minutes.

"MORALES: The big Coast Guard? The big Coast Guard remained there."

BY MR. BIERMAN:

Q Where Mr. Prieto was speaking about the patience of Job, did you substitute in English an expression there?

A Yes, I did. There was an obscene word where I said "of Job," but in English we often use that expression. Therefore I felt that it was adequate here.

Q There had been no Biblical references in this tape?

A No, there hadn't been.

Q Continue.

A (Reading) "PRIETO: What we were

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waiting for also was the cars, buddy. A hell of a stream of cars kept coming. One could not fire in the presence of the cars. (Then some words I couldn't understand. They were laughing and talking at the same time.)

"MORALES: His face, the face of the fellow was one of despair, and then it was necessary to arrange for when not so many cars were coming by there.

"PRIETO: And that the Coast Guard fellow should be at the point. Didn't you see? He was glued there.

"MORALES: The shot was perfect, gentlemen. I have heard comments of the people in the street who say, hell, that the shooting must have been done by means of a lighted sighting device, and the projectile went lower when it passed over the water, period--that's all. If it hadn't, you would have put it on the deck (some words I didn't get.)

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"GONZALEZ: If it hit on top, on the flying bridge, it would have been damned good.

"MORALES: No, no. That Coast Guard would tear one's head off. They say that it had stopped.

"GONZALEZ: No, no, no (some words I didn't get) the upper part of the ship. You know that now they are of fiberglass. That really would have emasculated it. What comments are there in the street, horse? (Some words I didn't get.)"

BY MR. BIERMAN:

Q Do you know whether "Caballo" is a common calling name in among Cubans?

A I have heard people addressed that way, but I asked other people and they say that they have-- that frequently in the south particularly they heard someone say "Hey, horse" to a person with whom they are friendly. So I thought--and then in the dictionary, too, it gives justification for it. So I went ahead and used the word that was used here.

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Q Are there other diminutive, friendly terms throughout these tapes?

A Yes. They use "Chico" constantly, and "Chico" has many, many translations. You can translate it as "buddy," "my friend," "old man."

MR. GREENSPAHN: Can we stipulate on Page 11 where it says "If it hit on top, on the flying bridge," there would have been a word used in place of the obscenity "damned good" but the obscenity doesn't necessarily connote damned good? These are the words of the interpreter?

THE COURT: Yes, that is true. Actually, unless the obscenity were used it would have very little sense.

MR. BIERMAN: Well, we are going to get into a problem area if we continue to--

THE WITNESS: I am sure here it is used as an emphatic word.

MR. GREENSPAHN: It would be something perhaps of a nature--

THE WITNESS: What do you suggest, Mr. Greenspahn?

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MR. GREENSPAHN: I could suggest many things, Mrs. Saliba, but I think it is best not to.

THE WITNESS: Then we could leave it out and just say "obscenity" if you would rather have it that way.

MR. GREENSPAHN: In that instance, yes, considering the context in this case.

Judge, I think the words "damned good" add emphasis that is not intended.

MR. BIERMAN: Would you re-read that line which Gonzalez says and translate that using the proper word that is there, if the Court has no objection.

THE COURT: No. Counsel has a right to have it read in its entirety and literally.

THE WITNESS: All right.

MR. BIERMAN: Never mind. We will just leave it. Go ahead back to where we were.

THE WITNESS: It doesn't make any sense if you use the proper translation of it. It is just the--

THE COURT: It makes sense if you look

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at it purely and strictly from a masculine viewpoint.
He figures that is something that is good.

THE WITNESS: Well, I said "It would
have been damned good." I think that is more or less
translating--

THE COURT: Let's go on. Let's go to
Page 14.

THE WITNESS: (Reading)

"BOSCH: Yes, they are here. Did you
give me the clipping of the editorial?

"MORALES: No. Do you want it?

"BOSCH: Give it to me. Do me the
favor, so that I can read it later calmly.
(Some words I didn't get) that of this
morning.

"MORALES: This morning's?

"BOSCH: (Some words I couldn't get)

"MORALES: This morning's. Well,
Orlando, I am going to give it to you
because I am cutting out.

"BOSCH: (Some words I didn't under-
stand) Listen, how are you going to see me

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tonight, then?

"MORALES: You want me to give you a call?

"BOSCH: Here, ~~we do not~~ have a telephone (some words I didn't understand) the hounds are following us, right?

"AN UNIDENTIFIED VOICE: Yes.

"MORALES: (Some words I didn't understand) five or six cars.

"BOSCH: Five or six is very few. I went alone. They allowed me to go."

MR. BIERMAN: We are prepared now to go to the third tape.

BY MR. BIERMAN:

Q I show you the third tape, Mrs. Saliba. Is this the third tape which you translated?

A Yes, it is, and it was recorded on 9/30/68.

Q We will just play this very briefly for sound quality.

THE COURT: All right, sir.

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(Thereupon the tape referred to was played, pursuant to which the following proceedings were had:)

MR. BIERMAN: This is the tape that we stipulated certain parts would be omitted upon the Court's announcement upon our stipulation that Miss Miranda did, in fact, discuss her feelings about certain people, and this was not relevant and those people would be Barbaro Balan, Tony Prieto, Marco Rodriguez, Orlando Bosch, Paulino Gutierrez, Jorge Gutierrez.

THE COURT: I think that is correct.

THE WITNESS: (Reading)

"AIMEE: Look, (some words I didn't understand) I swear to you by my mother, that I never in my life ask questions.

(A few words I didn't understand) They tell me this today. You can be sure that one day they will put me in something and I will be taken to Cuba, and I will not find out when I am in Cuba, because I have never inquired.

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"MORALES: I did nothing but go. Well, now, I did not know either. Orlando was the one who told me in the car. You remember that when I said to him, 'Hey, why don't we let this matter of the spring go until tomorrow? I can go to Hialeah and look for the spring for you', or something like that. That was when he said, 'No, no, no.' I said, 'Oo.' Later in the car was when he told me. It made them crazy. If you saw that, you would die laughing.

"AIMEE: He told me that. He says that he was half asleep in back when the shot rang out. And you said, 'Now (some words I didn't get).' And he sometimes makes me pity him because he has to have his hand in everything. He has to (some words I didn't understand) everything, and he has to fight everything, Morales, until he is satiated.

"If you told me that, one of these petty leaders who says to go and get this thing and the other, forget the panorama.

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Orlando has to check, he has to find some place to keep (some words I didn't understand). Listen, everything. The contact which sells it, the contact, everything. I tell you that now 'Patria' says that there are some microphones which can catch what is said for a whole block around. It put the ten points on the last page. It seems that as this fellow. . ."

BY MR. BIERMAN:

Q Now we go over to Page 12.

A (Reading)

"MORALES: You know that was some party. Jorgito, Paulino, Orlando, Babi, Prieto and I. Everybody going around like crazy all over the place, and I believe that even Bombillo passed by.

"AIMEE: It was amazing that the filament in Bombillo did not break."

BY MR. BIERMAN:

Q What does "Bombillo" mean?

A "Bombillo" means "light bulb" and they

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use the word "filament" jokingly; a play on words.

"MORALES: Incredible! I thought I was going to be arrested that night."

Q The use of the word "party" in Morales' speech, you made a note of that?

A Yes. The word here is that which is a dance, and it is used to mean a gathering, a dance or a party or some affair. So in this sense when Morales said there were so many of them gathered there, it was like a party.

Q Go ahead.

A Then at the bottom of the page, there were quite a few words that were unintelligible there.

"AIMEE: If they caught him in that, what a mess, what a terrible spot to be in. (Some words I didn't understand.) He is the only one I know for whom he remains quiet.

"MORALES: And Paulino got mad, too, because Jorgito showed up there. That fellow is as irresponsible as hell. 'What does he have to do here'?

"AIMEE: Now, I am going to tell you

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something. For me, Paulino is a great person. Paulino for me is one, one of the persons who has cooperated most. I consider Jorgito and him the intellectuals.

"MORALES: But Jorgito has never participated in anything. What is this fellow waiting for to be put to work, my dear? You know how little I like that fellow.

"AIMEE: But, come now, if you do not see the day of the, there are things that I to Orlando, you know Orlando is lost here because he, you know that when I. . .I am going to tell you something, when something has to be said to me (some words I didn't understand) even though it may be while quarreling, there are times when he should be shaken, but I have never said that I wouldn't do it. And it is, 'Go here, go there. Do this, do that.' I have never refused, even though I might be scared to death. I have never seen Jorgito going

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around with any package (some words I didn't understand) He is an intellectual. The

night of the interview with the press (some words I didn't understand) a little piece of paper and it was passed to him. Bah!

That is not the time. Orlando screwed himself up when the other day, when he learned

(some words I didn't understand). He says

that he was dismantling that and taking it out of there (some words I didn't understand)

He lives on his own and when he makes a

decision, leave it that way. (some words I

didn't understand) No doubt, he is trained, but only for sitting down at a typewriter.

He wants to direct, you understand? I say to him, 'Listen to me, if a person here is not good for one thing, he is good for something else. But everybody is useful.

Because, look, Marcelino cannot be used to go out with a cannon, nor to be sent to war, but he is useful. You are not fit to pick up a dagger."

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There were some words by Morales that I didn't understand.

"AIMEE: (Some words I didn't understand) He likes to be important, and because Orlando, Orlando is very. . .

"MORALES: The day of the hooded man, he was the one who was receiving the newspapermen. He was photographed there, and all that.

"AIMEE: Young man, do not say that, for the newspapermen, he wants to direct. He is mad about the press and all those things. (A few words I didn't get). He is one of the fellows from the action group. Bombillo cannot stand it."

THE WITNESS: The "it" should be "him."

"MORALES: Besides, do you think, for example, if they caught him, do you think that he would remain firm?

"AIMEE: Yes.

"MORALES: Do you believe that?

"AIMEE: Like his father, both are

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short and small, but calm. (That word can also mean "courageous.")

"MORALES: I thought that the one on whom they had put the hood was the father.

"AIMEE: No.

"MORALES: A little man like the one who made the report. I do not remember. I believe that it was Garcia Fuste, or someone like that, a little man, about five foot four inches, something like that. I said they put it on the one without the ear, there, they put the hood on him, and since Jorgito was there--

"AIMEE: No, Jorgito, no. That fellow does not talk. I am familiar with, you understand, 'I know what is going on, and that is that he considers himself superior to everybody else."

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"MORALES: No, with all his difficulties and those things, he is the one who has lasted the longest in the street.

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"AIMEE: That is why I, the only thing I am guided by, ~~is (some words I didn't~~ understand). Since I have known him ~~(some words I didn't understand)~~. It is not that I think he is especially gifted. He is just an average and normal man."

And here he uses an expression "I am not belittling myself."

"Now, you understand? That he is a superman? Not at all. In the street, he is the one who has been clearest in his aims, he has been the ~~(some words I didn't~~ understand), without any intense emotion, Morales, why don't you take it up with him, you know?

"MORALES: Aimee, but what I see is. . .

"AIMEE: (Interrupts) Is exact policy. He has followed a consistent course."

Q Mrs. Saliba, at the bottom of Page 18, where Morales is speaking, did he call the name "Aimee," is that correct?

A Yes.

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Q And then the next time you use the word and said that Aimee is speaking?

A Yes, Aimee is speaking. And I noticed here in the typing--I believe that is what Mr. Greenspahn is coming up to say. In having this typed, I did notice that the Spanish part of Aimee's speech was left out, but it might be in the original pages that I typed.

Q Was there a Spanish part which you translated?

A Yes, there was.

MR. BIERMAN: Then I will be glad to delete it from the jury's consideration since we do not have it.

MR. GREENSPAHN: Let the record reflect that this is exactly the kind of predicate I had laid at the time of making my objection, and I renew my initial objection.

THE COURT: All right, sir. The record will so note and your objection will be overruled.

THE WITNESS: Now we are on Page 19?

THE COURT: Yes, ma'am.

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A (Reading)

"MORALES: Aimee, what I see is the following: If we over here do not go to Cuba and do things in Cuba, Aimee, we are lost. With this playing around over here in the United States, we will not get anywhere. That is how I differ.

"AIMEE: Notice, the way that you differ, notice what I am going to say, Morales, there are contacts in Cuba, but don't think that what has happened has been for nothing. That is positive. Orlando possibly has not spoken to you much about these things.

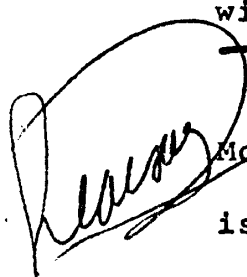
"MORALES: No, what I said to Orlando was, 'Look, Orlando, when the time for Cuba comes, speak to me of Cuba. Do not talk to me about here in the United States, because each one has his own theory.'

"AIMEE: (Some words I didn't understand) in the sabotage over there, forget that there was a connection. This is just

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analyzing the truth without any smoke screen of any kind. Well, now, so far, aside from everything that, there is the one fact: If the insurance companies here are shaken up a little bit in this matter, the insurance companies will not insure ships. What Fidel is receiving is the minimum. Did you hear Fidel's speech yesterday?

"MORALES: Aimee, excuse me, no company on whose ships the bombs were placed, not a single one of those companies trades with Castro.

 "AIMEE: Yes, sir, that is a fact, Morales. You cannot believe that Orlando is working on his own. Orlando is being directed by two or three attorneys, people who know their stuff.

"MORALES: I know, I know.

"AIMEE: I mean people.

"MORALES: But the fact is that none of these companies, if tomorrow they say, 'We will not trade with Castro any more,'

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they do not trade with Castro. There are only three companies which are the ones trading with Castro. And none of those ships touch American ports. That is where the attacks on this matter are going to come from.

"After all, the bunch of these gangsters here are placing bombs, here and outside. Do you hear me? What is being created is a terrible confusion. I claim that it is necessary to go to Cuba, Aimee. That is my contention and I even said to Orlando a little while ago, 'Orlando, there is this and this and this and this. A little thing there in Cuba.' And he said to me, 'Morales, without resources, I am not going to get involved in anything else outside.' Then I said, 'Fine. Let me know when you have the resources, for I will be the first one to go over there on a boat.'

"AIMEE: I am going to tell you one thing. I want you to be sure that what has

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happened in Cuba has been in combination with what has happened here. (Some words unintelligible) Here there cannot be launched (A few more words unintelligible) clandestinely to put what we need ourselves (some words unintelligible).

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"MORALES: What Fidel is heading for is a blood bath, Aimee, that is what Fidel is heading for.

"AIMEE: For a blood bath, that is right. (Then there were a few feet unintelligible) What I am afraid of is that this thing is going to begin to get difficult for us and they will jump on us, but I can be sure that" and then she is interrupted by Morales.

Now, on Page 25:

"AIMEE: No, no, but that is beginning now. That is beginning now.

"MORALES: They are hiding the news, they do not give it. They do not give it.

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"AIMEE: And there have been many which have been placed and have not exploded.

"MORALES: They do not give it.

There was one bit of news which the FBI gave to Orlando (a few words unintelligible) the Mikagesan, I believe it was (a few words unintelligible)."

BY MR. BIERMAN:

Q Did you listen to a fourth tape?

A Yes, I did listen to a fourth tape.

Q Did you prepare a translation in the same method?

A Yes, except on this one, since the last part of the tape had been speeded up, it had to be sent to the Bureau Laboratory to be slowed down, and even at that the speed was not constant; so we had to use a machine on which the speed could be regulated in order to make it intelligible.

Q Did you listen to that for a number of hours?

A Yes, I did, many hours. I would say

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about five or six hours.

Q And you prepared a transcription and translation?

A Yes, I did.

Q Will you proceed to read the relevant portions?

A I have part of the speech on Page 7 marked as "In" for the first one, is that it?

Q That's correct.

A (Reading) Gonzalez is saying this:

"Then everybody began to react. (A few words unintelligible) Even the businessmen began to realize that there were two powers, that one was composed of blackmailers, and that the rumor had already begun. Hell, the other one is that of Orlando Bosch and the prestige of Orlando in the revolutionary process, and then they said, 'Damn, already these people (a few words unintelligible) to stop them because they are going out as bombers, as persons who screw things up, and thinking also that these little crazy

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people would make an attempt on Orlando's life, would explode a bomb at Orlando and would say that it was the CIA people. They used their heads a lot (some words I didn't understand) I told this same thing to Orlando long before. They are not going to act in your case. They are going to drop it or, if not, the court will absolve you.

"MORALES: I hope so.

"GONZALEZ: In Cuba, the CIA (some words I didn't understand) revolutionary action, action of Cuba. Now they see you connected here and they say, 'Hell, since we have caught this rooster, the other roosters will come out to strut.' They are going to scatter seed. They are going to act sympathetic toward the fellow and the side of terrorism, which they fear. The businessmen who are afraid, the people who are afraid, are going to respond (some words unintelligible). They know where they stand, horse. If now, at this time, they take

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Orlando, the businessman whom I, Prieto, or some other person goes to see, and we say to him, 'Listen, old man, you have to close up,' don't you think he will close up?

"MORALES: Of course.

"GONZALEZ: He'll say to you, 'Why, of course, if Orlando. . .' even though inside he may be saying, 'S.o.b., damn him, they are going to screw up my days,' and he will refer to you"--that referral there is not clear. I put it in, but I put a questionmark after it--"to you with sympathy. If the FBI goes there to ask him, 'Did these people order you to close down?' 'No, no, indeed not, I closed down because I sympathize with that fellow.'

"MORALES: Do you believe that they intend to apprehend Orlando?

"GONZALEZ: I do not think so. They are very much afraid of the reaction, for, look, they are going to come out for him

Saliba - direct

afterwards in Miami. For they know who Orlando is. Los Angeles, New York, New Jersey, Miami (some words I didn't understand) Then they say, '(some words I didn't understand). They will paralyze it.' The wise guys and the crazy ones will go out and place bombs. They are going to see a hell of a mess here. Uncontrollable for us, uncontrollable for them, and then if they arrest Orlando, the wise guys are going to place bombs here, bang! bang!, so they can see what the process is and they know all that. The other is going to come out because of sympathy, because it will be stirred up. We are not going to do anything like that, but on another terrain, a strike (in the sense of a work strike) dammit, with Orlando arrested (a few words unintelligible). You can believe that in their feelings, they do not have the desire to avoid the problem. The process of Orlando has already made so much progress (a few words unintelligible).

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"MORALES: Bombillo, give me a light.

"GONZALEZ: (Something unintelligible).

"MORALES: The people, the people support you one day, they support you two days and then they forget you (some words unintelligible).

"GONZALEZ: To the people, to the people, it is necessary to give them a piece of bread in one hand and a cudgel in the other. This is a process, after we have straightened ourselves out, we will leave only four s.o.b.s. Here, they have no prestige or for four perverts here. Orlando should be sent to prison, or I, you or somebody else. No, no, no, not for a-- damn it. These people move 1,300 men. For Felipe did not have that organization. The other factory, 700. During Felipe's time, he did not have that organization at the beginning. Something, which was just starting. Are we in the position that Felipe was in at the time of his trial, do

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you remember? A little bit, a little bit, a little bit, and it kept growing and growing, and at the end of the week, it was tremendous, boy. If Felipe had had the procedure at the beginning that we have, they would not have arrested him (a few words unintelligible). Why do you think that we are in existence? For two reasons (a few words unintelligible). Because we are going to paralyze Miami, the hotels. Tourism is starting up now, brother (a few words unintelligible).

"MORALES: With tourism coming up now, if Miami is paralyzed by a protest because of the arrest of Orlando, just imagine.

"GONZALEZ: Why do you think that they are following us so closely there? In order not to permit us to do anything. They do not want to pick us up.

"MORALES: That's right, sir. That would call attention and things like that."

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"GONZALEZ: We have all the young pigeons behind us and they continue to bother us. What a bother. They have me as I leave the traffic and arrive at the house of the woman--(that could be his wife)--I return home. Then in the morning when I arrive, I pick up Orlando. Then it seems that they withdraw the guard. Two cars withdraw (a few words unintelligible) since they know that we go together, and when they saw, they return to the office."

That word "return" wasn't clear, either. And then there are a few words that are unintelligible.

"MORALES: Bombillo, that little apparatus, weren't they ever able to charge it for you?

"GONZALEZ: (A few words unintelligible) We found a guy who had thrown away five tanks of that.

"MORALES: No fooling, my good man.

"GONZALEZ: Who had thrown away five

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tanks of that (some words unintelligible)
five little tanks of oxygen of those of
3000 or 6000 pounds. 3000 pounds, wasn't
it?

"MORALES: 3000.

"GONZALEZ: And he threw them away
because he got frightened. They come
separately--those balloons inside a
container, right? So well taken care of,
it seems, so that they wouldn't be hit, or
something.

"MORALES: Yes, most likely.

"GONZALEZ: (Some words unintelligible)
inside of a container with some of that
stereofoam.

"MORALES: And he threw them away
loaded? Because that was empty.

"GONZALEZ: Yes, that was empty. But
the one who threw away the (some words un-
intelligible) Orlando and I went around in
all directions. That is a shame, boy!
(some words unintelligible) You go to the

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house way the hell out there and you go
below for five hours, right?

"MORALES: No, three hours.

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"GONZALEZ: Very much screwed up.

The (a few words unintelligible) of these
people is that they know that we here, if
it were not for the ships. . .

"MORALES: The ships because of what
has happened.

"GONZALEZ: Ah, yes, no, because, hell,
we would never in our lives have wanted it
for two reasons, for politics and for the
security of moving about here. If they had
exploded outside, in the house way the hell
out there. They knew where they came from,
more or less, but fine, they would have
looked at it with a certain sympathy at
least. . . less persecution. But they could
say, 'You came loaded, you came with the
prize on you from Spain, from Venezuela.
The place they would have suspected the most

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was Venezuela, because one of the ships which (a few words unintelligible) the CARIBBEAN VENTURE, this was coming from Venezuela. Do you know that they refused to unload it there?

"MORALES: Ah, yes?

"GONZALEZ: Yes, the CARIBBEAN VENTURE was coming from Venezuela with the cargo which it had taken to Venezuela. The people in the port there refused to unload it. They could have suspected that it came with the prize on it if it explodes in the Gulf. It is a shame there were not a few dollars around. Everything was messed up, my money, that of Orlando (a few words unintelligible) from Venezuela.

"MORALES: Now you have to get some money.

"GONZALEZ: Eh?

"MORALES: Now you have to get some money.

"GONZALEZ: (A few words unintelligible)

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I have to go to work.

"MORALES: You will have to get some money at any rate with the campaign of the million."

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"MORALES: What is needed is money for moving about.

"GONZALEZ: With this money here, no one is held back (a few words unintelligible) and cells of men with conditions to work at little things are not lacking (a few words unintelligible) horse, this we have done, damn it. It can almost be said with four men with guts, without being frogs (frogmen) and damn it if I fall in the water, I drown, damn it. This was put on with guts and how many men with guts like us can there be? To be good and to be ready, the two conditions, you understand me, because there was no faith, because that big pile of s.o.b.s, Arttime and the other, disappointed that whole team of good men."

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MR. BIERMAN: I believe that concludes the transcription. We have no further questions.

THE COURT: All right. Does defense counsel have any questions it desires to ask this witness?

MR. GREENSPAHN: Yes, your Honor.

In accordance with our agreed procedure on this, I was going to have the witness give us the portions that we felt were relevant in this. However, I note and I would call this to the Court's attention--that it is getting into the evening and I don't want to undertake something to the discomfort of either the Court, the jury or the witness if it can be better attended to in the morning or on Tuesday.

THE COURT: Well, we cannot do it in the morning.

MR. GREENSPAHN: I do not think Mrs. Saliba's presence is absolutely essential from this point forward. As to the reading of the transcript, which we all have copies of, if the Government has no objection, I can read these to the jury at some other time.

THE COURT: All right, sir.

MR. BIERMAN: If it is only some further reading, it probably can be completed now or we can agree to allow the transcript to be read at any time, those portions that they wish.

THE COURT: Since we do not require this lady, I do not think there is any necessity that it has to be done tonight. The jury has had it not too long by hours but a pretty long day by time at least. And I have been here since six o'clock myself or since eight o'clock this morning, and I am about ready to quit.

Ladies and gentlemen of the jury, I am getting ready now to recess this trial until nine o'clock Tuesday morning, which I think is in accordance with the view of the majority of you ladies and gentlemen. During that recess, of course, the instructions which I have given you are still applicable.

If there is any question in anybody's mind, I will repeat them to you. If each of you indicate you remember them and know what they are, I will not repeat them to you. Does everybody on the

jury understand the instructions I have given you?

(The jury indicates in
the affirmative.)

THE COURT: Then having indicated that
you do, I will not repeat them. You may be excused
then until nine o'clock Tuesday morning, and I hope
that each of you has a nice weekend.

(Thereupon the jury was excused.)

THE COURT: All right, gentlemen.
This case will be recessed until nine o'clock
Tuesday morning. Good night.

(Thereupon at 5:51 p.m., the
hearing was recessed to
reconvene on Tuesday, November
12, 1968, at 9:00 o'clock a.m.)

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12A-1

MIAMI, FLORIDA

Tuesday, November 12, 1968

(The hearing resumed,
pursuant to prior recess,
in the North Courtroom,
pursuant to which the follow-
ing proceedings were had:)

THE COURT: Is the Government ready to
proceed?

MR. BIERMAN: We are ready, your
Honor.

THE COURT: All right, sir.

MR. BIERMAN: I believe, your Honor,
when we left off on Friday, additional transcript
testimony was to be given. And we had agreed that
it was not necessary to call--

THE COURT: Yes, sir, that's right.

We had agreed, ladies and gentlemen,
that it would not be necessary to replay these other
three tapes and these portions would just be read
to you, the portions of them which had been admitted
into evidence. According to the law they have to
play it. But it really does not mean very much to

you since you do not understand the language, but this will save some time.

All right. Are you ready?

MR. BIERMAN: Mr. Greenspahn said that he wanted to read additional portions in.

MR. GREENSPAHN: With regard to what has been recorded as to Tape 1.

THE COURT: All right, sir.

MR. GREENSPAHN: (Reading) Commencing at the bottom of Page 18, Morales is speaking:

"Buddy, if I get the continuance this coming month with the problem of not having Valdes show up, I already told that to Miguelito and Miguelito said, 'No. That's the way I am going to do it, not have Valdes show up. Let's see if they will tell the father of Jorgito to check this out well for me, or something like that, so that Valdes will not show up because he is a witness for the government. If he is not there, my attorney does not have to say why he has to have this witness present. You understand me? In that case, the continuance

is automatic."

Page 22--

THE COURT: I may explain to the jury since this is somewhat out of context, this conversation relates to the conversation or the testimony that you heard about of Mr. Morales being charged with another offense and his trial in that event; so that you can place it in proper context.

Go ahead.

MR. GREENSPAHN: Page 22, about half-way down the page.

"MORALES: No. They already know it, they already know it.

"BOSCH: Very well.

"MORALES: Well, so you have resumed your friendship with Dr. Bosch. Now that your trial is coming up, you chose a bad time, and all that sort of thing.

"BOSCH: Yes, yes, to blackmail you. Look, I have been a friend of Orlando for 20 years.

"MORALES: They know that already."

On Page 23--

MR. BIERMAN: Your Honor, before we continue from Page 22, could we have that idiom explained as to what that means, about the twenty years?

THE COURT: That is still in context with the same matter I have told you about before, the other pending charge against Morales, and Morales is talking allegedly to Dr. Bosch about the matter.

MR. BIERMAN: And the "For 20 years" is also an idiom in Spanish which means for a long time rather than literally twenty years.

THE COURT: All right, sir.

MR. GREENSPAHN: Now, Tape 2, Page 13, commencing about two-thirds of the way down the page:

"MORALES: Another thing, two months ago, a fellow named Hunt, who is a member of the Republican Party, was here, and he gave \$15,000 to some representatives of Cuban Power to place bombs.

"BOSCH: I knew nothing about that.

"MORALES: \$15,000 bucks they gave.

"BOSCH: You know, that makes two

people who tell me this. Not that about the \$15,000, but that Hunt had rounded up something here, something about that.

"MORALES: \$15,000?"

"BOSCH: No, Hunt. The one of the wells. (Then something apparently unintelligible) you, yourself (and something else unintelligible)."

Then over to Page 23 in Tape 3, this is in the conversation allegedly between Morales and Aimee Miranda. The third paragraph from the top:

"MORALES: In the end, on which level does one remain? Just the same old thing, the same old story? So we will remain here, fighting, one organization against the other, and fighting with the authorities here?

"AIMEE: That is precisely what Orlando does not want. He has his plans. You won't believe it. The money is not, you will not believe that it is not for putting little bombs everywhere, but for Cuba. What happens is that it is necessary to have, you know, things. . . Just think, Morales, it is nine

months since the first shaking up."

Tape 4, Page 16:

"GONZALEZ: Be happy. (Then apparently some words unintelligible). What you have never seen me with is pot smokers and criminals. You will see me with revolutionaries. I am a revolutionary.

"MORALES: I know that.

"GONZALEZ: You have never seen me with criminals. All the people that you (apparently some words unintelligible) pot smokers and criminals I really do not know them. The hell with them! He came and asked me the first time, 'Do you know anyone in Cuban Power?' I say to them 'Yes.' His eyes shone. He says to me, 'Which one?' I say to him, 'Omar Soto, the one who came out in the newspapers, who said so himself.' He says 'Ah,' (the next is an obscenity. Then another obscenity.) 'Isn't that what it is?

"MORALES: Yes."

Your Honor, those are the portions that

I wished to read.

THE COURT: All right, sir. Thank you.

MR. BIERMAN: We would just read one additional portion then, your Honor, following this last statement from Gonzalez about Omar Soto. Morales said "Yes" and then some obscenity. And then Gonzalez says:

"That Omar Soto is a damned fool.

Something like that, the fellow said to me. But he thought I was going to tell him. . ."

And then he laughed.

"Which one?"

"I say to him, 'This one.'

'Which one?'

'This one who is here in the newspapers, Omar Soto.'

'Ah, yes, that is. . .'"

And then there is some obscenity and a discussion of what this means in English.

THE COURT: All right. You may proceed.

MR. BIERMAN: I will call Mr. Killian.

THEREUPON--

CHARLES L. KILLION,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Charles L. Killion,
K-i-l-l-i-o-n, 8317 Stanwood Street, Hyattsville,
Maryland. I am a Special Agent of the Federal
Bureau of Investigation assigned to the FBI
Laboratory in Washington, D. C.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q How long have you been employed, Mr.
Killion?

A I have been a Special Agent for the
past twenty years, assigned to the laboratory for the
past eight years.

Q What is your field in the laboratory?

A I conduct explosives examinations and
firearms and tool mark examinations.

Killion - direct

Q Is this what you have been doing for the last eight years, sir?

A Yes, sir.

Q How many bomb-type apparatuses have you examined during the course of that time?

A Many such apparatuses or parts of them.

Q Could you give us a rough estimate of how many?

THE COURT: Would it be hundreds or thousands or what?

THE WITNESS: I would estimate a couple of hundred.

BY MR. BIERMAN:

Q Have you ever given any instruction in the field?

A Yes, sir.

Q Did you have any special training in munitions prior to going into this field?

A Yes, sir.

Q What was that?

A During three years of military service

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in the Corps of Engineers, I worked with explosives at that time; and then I have visited explosives manufacturers, conducted schools and conducted tests of my own.

Q Sir, did you have an opportunity to examine the vessel ASAKA MARU?

A Yes, sir.

Q When and where was that?

A On June 5-6-7, 1968, at the Alabama Drydock & Shipbuilding Company in Mobile, Alabama.

Q Would you describe to us what you found?

A I found that an explosive device had been placed on the ship and had detonated. It had been specifically placed on the ship within what is referred to as the rudder compartment. On the ship the rudder is attached to a large shaft, the rudder being the part that steers the ship. It is attached to a large shaft that runs vertically up through the ship and is connected to appropriate controls. The explosive device had been placed up in the compartment through which the rudder shaft extended.

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Q How is that compartment accessible, sir?

A At the point in the bottom of the ship at which the rudder shaft extends down through the ship, there is a space around the rudder shaft and the portion of the ship immediately around it.

THE COURT: What he means is how do you get to that section? Is it from the inside of the ship or from the outside of the ship?

THE WITNESS: Your Honor, from either the inside or outside. There is access from the inside and there is access from the outside.

BY MR. BIERMAN:

Q Do you have any photographs of that, sir?

A Yes, sir.

MR. BIERMAN: Will you mark these as a composite exhibit, please?

(Thereupon the photographs referred to were marked as Government's Exhibit No. 41 for identification.)

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BY MR. BIERMAN:

Q Referring to these photographs which are now marked as Government's Exhibit No. 41 for identification, do they accurately reflect what you saw upon the ASAKA MARU?

A Yes, sir.

MR. BIERMAN: Your Honor, I offer Government's Exhibit No. 41 for identification into evidence.

MR. GREENSPAHN: No objection, your Honor.

THE COURT: All right, sir. They will be admitted into evidence as Government's Exhibit No. 41.

(Thereupon the photographs referred to were received in evidence as Government's Exhibit No. 41.)

BY MR. BIERMAN:

Q Will you explain to us, sir, what each of these photographs represents?

A Government's Exhibit 41 consists of a group of photographs, some of which show the damage

Killion - direct

caused to the ship and the area on the ship in which the damage occurred.

Q Just a minute, sir.

MR. BIERMAN: Mr. Clerk, could you please mark these alphabetically so we will know what we are referring to?

(Thereupon the photographs referred to were re-marked Government's Exhibits 41-A through 41-I.)

BY MR. BIERMAN:

Q Starting with Exhibit No. 41-I, will you relate to us what these are?

A 41-I is the photograph taken from the starboard or the right side of the ship, back in the rudder area. It shows the rudder shaft which connects to the rudder. It shows the hull and portions of the ship which have been separated, deformed, torn by the explosion.

Q When the ship is in normal condition, sir, is this a solid piece across here?

A Yes, sir.

MR. GREENSPAHN: If it please the Court,

Killion - direct

I move to strike the answer. There has been no proper foundation for the expression of that opinion by this gentleman. I don't think he has testified yet that he ever saw the--

THE COURT: He hasn't shown any qualifications as to this particular part of the testimony.

BY MR. BIERMAN:

Q Mr. Killion, have you ever examined ships before?

A Yes, sir.

Q Have you ever examined the rudder areas?

A Not to get down and look in this specific area, no, sir.

Q From the outside?

A Yes, sir.

Q Have you ever examined a ship rudder area where there was an explosion in some other area?

A I have seen it, yes. I have not conducted a detailed examination of that area.

MR. BIERMAN: I will not pursue that any further.

Killion - direct

May I pass these around?

THE COURT: Yes, sir.

BY MR. BIERMAN:

Q The next photograph, sir?

A That is a photograph of the same area as depicted in photograph 41-I, this being photograph H, and it is a close-up of that area.

Q And what is the next one?

A Photograph 41-G is of the same area. Photograph 41-F is the same area at a greater distance, taken at a greater distance.

Photographs B, C, D and E show the area in which the explosion occurred. This shows the area after a portion of the outer hull of the ship had been cut out by a cutting torch to give access to the area.

Q What is the last one, sir, with what appears to be a measuring device?

A Photograph 41-A shows the aft or rear side of the rudder shaft showing a pockmarked area running the length of the shaft.

Q How long is that, sir?

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A Well, the major portion of the pockmarked area is generally about sixteen inches, but some more minor pockmarked area extends beyond the sixteen-inch area.

Q As a result of your examination, are you able to say what caused this pockmarking?

A An explosion.

Q Did you have an opportunity, sir, to examine the vessel COROMOTO?

A Yes, sir, I did.

Q When and where was that, sir?

A On September 15-16, 1968, at the Puerto Rico Drydock Company in San Juan, Puerto Rico.

Q What did you find?

A I found that an explosive charge had been placed on the outer hull or very close to the outer hull of the ship, placed specifically on the right side of the ship forward and just above the propeller; that is, the propeller shaft extending out the back of the ship, which attaches to the propeller. The explosive device was placed above the area--in the area above the propeller shaft and

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just forward of the tail end of the ship.

Q Were you able then to determine from your examination what was the result of that placing?

A This explosive device exploded. It had detonated and it had blown a hole through the hull of the ship into the interior of the ship approximately two and a half feet wide and approximately three and a half feet high.

Q Do you have with you photographs of that, sir?

A Yes, sir.

MR. BIERMAN: Will you mark this as Government's Exhibit 42-A through D, please?

(Thereupon the photographs referred to were marked as Government's Exhibits Nos. 42-A through 42-D for identification.)

BY MR. BIERMAN:

Q Do these photographs accurately represent what you observed?

A Yes, sir.

MR. GREENSPAHN: No objection, your

Killion - direct

Honor.

THE COURT: All right. They will be admitted in evidence as Government's Composite Exhibit No. 42.

(Thereupon the photographs referred to were received in evidence as Government's Exhibit No. 42.)

BY MR. BIERMAN:

Q Will you explain to the jury what each of these represents?

A The exhibit consists of four photographs.

Q Each one has got a letter on it?

A Photograph 42-D shows the general area of the right aft or rear end of the ship, this particular area. It shows a portion of the rudder extending up above the water and a blade of the propeller above the water. Just forward of the blade or the propeller in the hull of the ship is the hole to which I referred.

Photograph 42-C is of the same area, a closer view, and is a photograph after the ship had

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been placed in drydock. The previous photograph was while the ship was being placed in drydock.

Photograph 42-B likewise shows the area damaged, shows the hole and its relative position with the propeller and the rudder.

Exhibit 42-A is a close-up of the hole depicting the damage that was caused to the hull of the ship.

Q In your examination of this explosion, did you recover anything, sir?

A Yes, sir.

Q Do you have that with you?

A I do not have it with me, no, sir.

Q Did you bring this down from Washington with you today or yesterday?

A Yes, sir.

MR. BIERMAN: Mr. Clerk, will you please mark these as Government's Exhibits 43 and 44?

(Thereupon the items referred to were marked as Government's Exhibits Nos. 43 and 44 for identification.)

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BY MR. BIERMAN:

Q I will show you what is marked as Government's Exhibit 44 for identification. Will you tell me when and where you first saw that?

A Government's Exhibit 44 are three pieces of brass which join together to form a type of hook. Those I found in the damaged area of the ship, the COROMOTO, at the time I conducted the examination. They were specifically located inside the ship in debris that was placed on the top of the propeller shaft housing. So it was inside the ship near where the explosion had occurred.

Q Did you examine the ship itself, sir, to determine whether these were part of the ship or were from an external source?

A There was no indication that there was any such hook in this area of the ship.

Q And this also applies, sir, to the silver colored piece?

A No, sir. The other hook was a hook obtained from a known source from comparison. It was not found in connection with the material we located

Killion - direct

in the ship. This is the silver-appearing hook.

Q Did you compare this silver-appearing hook with the part that you found?

A No, I did not.

Q Then we will not put this in this envelope.

I show you, sir, what has been marked Government's Exhibit 43 for identification and ask you when and where you first saw that.

A Government's Exhibit 43 I likewise found in the same location as Government's Exhibit 44, in the debris on top of the propeller shaft housing of the COROMOTO. It consists of two links of chain and what appears to be a deformed metal hook.

Q Did you again, sir, examine the COROMOTO to determine whether this was from the ship or from an external source?

A I did. I found nothing in this area of the ship that could be associated with either the links of chain or the hook.

MR. BIERMAN: Your Honor, we would offer Government's Exhibit 43 and 44.

Killion - direct

MR. GREENSPAHN: We object as to materiality and relevancy, your Honor.

THE COURT: All right, sir. The objection is overruled. The articles will be admitted in evidence as Government's Exhibits 43 and 44.

(Thereupon the items referred to were received in evidence as Government's Exhibits Nos. 43 and 44.)

MR. BIERMAN: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Killion, going back to your testimony relative to the ASAKA MARU, how far up the rudder shaft, in your opinion, after studying the scene, was the explosive charge, if there was an explosive charge, placed?

A It was centered approximately three feet above the bottom of the ship.

Q As I understand it, the rudder shaft is actually a tunnel or an area enclosing the rudder apparatus itself, is that right?

Killion - cross

A That's correct.

Q And apparently this is cylindrical in shape?

A Yes, sir.

Q How far up that tunnel or tube, if we can call it a tube, were the explosives that initiated the explosion on the ASAKA MARU?

A If I understand your question, how far up the shaft from the hull of the ship?

Q From the external portion of the rudder shaft.

A Yes, sir. About three feet.

Q About three feet?

A Yes, sir.

Q And how far from that point was it to the first open accessible point within the interior of the ship into the rudder shaft?

A At the top of this compartment in that area was a--it was not an opening. It was an enclosure that was bolted to the top of the compartment through which access could be gained from the interior of the ship.

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Killion - cross

Q Was that top to the compartment sealed or bolted when you made an inspection of the vessel?

A It was bolted at that time.

Q Did you determine whether or not it was bolted at the time of the explosion?

A No, sir, I did not.

Q With regard to the motor vessel COROMOTO is this, in terms of the rudder shaft, similar to the ASAKA MARU?

A In the construction of the ship?

Q Yes, sir.

A It would be similar, yes, sir.

Q The same type of rudder shaft with access both from the interior and the exterior of the vessel itself?

A I would presume so, yes, sir.

Q When you looked about in the course of your investigation on the COROMOTO, did you see debris at the area of the explosion or in any of the compartments of the vessel?

A Yes. There was debris on the inside present on the top of the propeller shaft housing.

Killion - cross

Q Is this the area that you found the exhibits that you identified, the hooks that you referred to, and the chain as well?

A That's correct.

Q What other debris, if any, did you notice in the area at which the hooks and the chain were found, other than the hooks and the chain?

A As I recall, a small piece of wire, some pieces of torn and twisted sheet metal, and then the paint and rust that had come off the metal of the ship from the explosion.

Q What was the area used for, if you know, in which you found the hooks and the chain?

A It is my understanding that it is a water ballast area; that it contains water. But I don't know this for a fact.

12A-2

Q You had never been on the COROMOTO before this visit of yours on September 15-16?

A That's correct.

Q Incidentally, where was the vessel when you boarded it?

A At the Puerto Rico Drydock Company.

Killion - cross

Q That is in San Juan?

A In San Juan, yes, sir.

Q In your experience on board motor vessels or steamships, have you had occasion to become familiar with the mechanical compartment of the ship, the places where the ship's workings are to be found?

A Just in general.

Q Have you, during the course of such experience, noted hooks and chains in and about vessels?

A Yes, sir.

Q Is it fair to say that it is common on a large vessel of this sort, of the sort of the COROMOTO, to find hooks and chains that are used in the workings of ships and for the service of the ship?

A That's correct.

Q Was there any basic distinction, again based upon your training and experience and upon your observations of the ASAKA MARU and the COROMOTO, in terms of the manner in which the

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Killion - cross

explosives were placed or in the manner in which they affected the vessels?

A There was, yes.

Q What were the distinctions, sir?

A First, in the ASAKA MARU, the explosive was placed on the interior of the hull of the ship against the rudder shaft. On the COROMOTO the explosive was placed on the outside of the ship forward of the area as used in the ASAKA MARU.

Q Then there was no common feature between the two explosions as to the manner and mechanism of the explosive device itself, was there, other than the fact that they both exploded? There were two different means of placing the explosives and causing the explosives to do the damage that they did--one inward and one outward?

A To that distinction, that's correct.

Q Now, did you find any apparatus or any portion of an apparatus or any portion of any type of detonating device in the course of your investigation?

A No, sir.

Killion - cross

Q Had you understood that the COROMOTO and the ASAKA MARU were both, in essence, in the same condition at the time of your examination of them as they had been at the time immediately after the explosions?

A That was my understanding, yes, sir.

Q Did you find any debris of any particular consequence or significance to you aboard the ASAKA MARU?

A No, sir.

Q Nothing?

A No, sir.

Q Did you cause to be made any written reports relative to your studies of the two vessels?

A I did.

Q Were these filed as a matter of course in the usual course of your professional activities?

A Yes, sir.

MR. GREENSPAHN: Your Honor, I would ask that I be permitted to see such 302s if they are, in fact, available.

Killion - cross

MR. BIERMAN: We have no objection.
I think Mr. Killion has some with him. Otherwise we
will have to search our files.

THE COURT: All right, sir.

THE WITNESS: I have a copy.

BY MR. GREENSPAHN:

Q May I see those, sir?

A Yes, sir.

Q Is this everything that you have,
sir?

A Yes, sir.

MR. GREENSPAHN: Your Honor, may I
have a moment?

THE COURT: All right, sir.

Ladies and gentlemen, we will take
a recess for about five minutes. During the recess
the same instructions, of course, are still
applicable.

Court will be in recess for five
minutes.

(Thereupon a short recess was
taken, pursuant to which the

Killion - redirect

following proceedings were had:)

MR. GREENSPAHN: I have no further questions of the witness, your Honor.

THE COURT: All right, sir.

MR. BIERMAN: Just one question on redirect.

MR. GREENSPAHN: Excuse me a minute, your Honor.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Killion, in your examination of ships, have you ever seen chains and links in the rudder area of ships?

A No, sir.

MR. BIERMAN: Nothing further.

THE COURT: All right, sir. Thank you. You may be excused.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

EDWIN B. ZEHNDER,
called as a witness on behalf of the Government,

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Zehnder - direct

having first been duly sworn, was examined and testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: If you will excuse me, sir. I have a little problem of hearing.

THE COURT: Please state your name, your address and occupation.

THE WITNESS: Officer Edwin B. Zehnder, Public Safety Department, Dade County. Officer in Charge, Underwater Recovery.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Officer Zehnder, can you hear me from here?

A Yes, sir.

Q What are your duties with the Dade County Public Safety Department primarily?

A Underwater recovery, sir.

Q How long have you been engaged in that type of work, sir?

A Ten years with the County.

Zehnder - direct

Q Mr. Zehnder, during the month of August, 1968, did you have occasion to examine the vessel LANCASTRIAN PRINCE?

A Yes, sir, I did.

Q Where was that, sir?

A Excuse me, sir?

Q Where was it when you examined it?

A It was anchored off of Miami Beach north of Government Cut, in the anchorage area.

Q How did you conduct your examination, sir?

A Under water, sir, with scuba equipment.

Q What, if anything, did you find?

A I found an object attached to the bilge keel--the starboard bilge keel of the ship--which I determined was an explosive device.

Q What did you do, sir?

A I released it from the bilge keel of the ship.

Q Then what?

A It was hauled above by Captain Tom Brody of our bomb squad and disarmed aboard ship.

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Zehnder - direct

Q Mr. Zehnder, will you step down here, with the Court's permission, and examine Government's Exhibit 45 for identification?

A Yes, sir.

Q Have you ever seen that object before?

A Yes, sir, I have.

Q When and where did you see it before?

A I first saw it attached to the star-board bilge keel of the LANCASTRIAN PRINCE.

Q Is this at the time that you made your examination that you discussed previously?

A Excuse me, sir?

Q Did you discover this at the time you made the examination in August that you previously told us about?

A Yes, sir.

Q Could you state whether or not this object is in approximately the same condition now as it was when you examined it?

A Approximately the same condition except that a chain--I had to sever the chain to release it from the ship.

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Zehnder - direct

THE COURT: You did say it was disarmed, didn't you?

THE WITNESS: Yes, aboard ship.

MR. MORRIS: I will offer Government's Exhibit No. 45 into evidence.

MR. GREENSPAHN: Before making my objection, there are notations written on the face of what appears to be a yellow paint, and I think that this should be qualified.

THE COURT: I agree with you, if there is anything on that that has been put on there.

BY MR. MORRIS:

Q Officer Zehnder, there are some markings in paint on this object. Do you recall whether or not those markings were on the object at the time you examined it?

A No, sir, I don't.

Q You do not recall?

A No.

MR. MORRIS: I think we can clarify that later.

THE COURT: All right, sir.

Zehnder - direct

MR. GREENSPAHN: Your Honor, I object to the introduction at this time of this exhibit inasmuch as it has not been properly identified, inasmuch as there appears to be on the face of it, and now that Mr. Bierman has opened the inside of it, markings that have been made obviously subsequent to its recovery, which have not been properly explained. It is apparently not in the same condition it was when it was recovered by Officer Zehnder, and I submit to the Court it is not material or relevant in any way as to these defendants, there being no showing of any relationship in connection between these defendants and this object. And I really am very much at a loss to understand what all of the several markings on it are--some in black paint, some in yellow paint.

MR. BIERMAN: We will be able to explain these as simply being further in the chain of custody with the appropriate markings. And since they mean obviously nothing to Mr. Greenspahn, they mean nothing to anyone else.

THE COURT: I am going to sustain the

Zehnder - direct

objection until such time as they are explained.

MR. GREENSPAHN: Thank you, sir.

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Where was the object on the occasion when you made the recovery, the object that has been identified? Was that the only occasion that you made any visual observation of this object or of the motor vessel?

A Excuse me, sir. Will you repeat it?

Q You stop me if you cannot hear me. Was the occasion that you have described out at Government Cut the only time that you had any connection with this matter about which you are testifying today?

A No other occasion; just that night.

Q Just that night?

A Yes, sir.

Q Now, was that, in fact, during a period of darkness or was it twilight or was it day-time?

Zehnder - cross

A This was in a period of darkness.

Q Will you describe to me, sir, the chain that you referred to and the method by which the device was secured to the vessel?

A It was secured to the bilge keel. I have a drawing of how it was attached to the bilge keel.

Q Do you know what disposition was made of the chain itself after you had removed it from the object or from the vessel?

A Do I know what, sir?

Q What happened to the chain, sir.

A To the chain?

Q Yes, sir.

A A part of the chain was still attached. Like I say, I had to sever one length to release it from the bilge keel.

Q Do you know what happened to either the piece that you severed or the piece that was attached to the bilge keel?

A There should have been two pieces attached to it yet when I had them hoisted aboard the

Zehnder - cross

ship.

Q Attached to the object that you had identified down here?

A Yes, sir.

Q What about the remaining portion of the chain? There was more chain, wasn't there, other than that portion?

A Yes, there was another piece of chain on the forward portion of the object which I had snapped to attach to one side of it.

Q Was any portion of the chain itself still attached after you severed it? Was any part of it attached to the vessel?

A No, sir, not to the ship.

Q It was all removed?

A Yes.

Q What were the lengths of chain, if you can approximate them for us?

A I would say approximately eighteen inches to two feet.

Q How many pieces all together?

A There would be four pieces of chain.

Zehnder - cross

Q . And just finally, if you will explain to us verbally in words with relation to the vessel where the starboard bilge keel is in lay terms. What is that area of the ship?

A There is a port and starboard bilge keel aboard a ship to keep it from rolling, and it runs forward and aft approximately halfway between the waterline and the keel itself.

Q This being starboard, it was on the right side of the vessel, is that right?

A Yes, sir.

Q How far from either the tailend of the vessel or the very front of the bow portion of the vessel was it?

A It was directly under the stag of the ship, just forward of the lifeboat amidships.

Q Amidships? In the center of the vessel, is that right?

A Yes, sir.

Q Do you know of your own knowledge whether that vessel had been in the Miami port prior to the time that you made your examination of it?

Zehnder - cross

A No, sir.

Q Do you know, when you went aboard the vessel, in what direction it was headed? Was it coming into or going out of Miami?

A No, sir. It was laying at anchor.

MR. GREENSPAHN: That is all I have.

Thank you, sir.

THE COURT: Redirect examination?

MR. MORRIS: No redirect.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THEREUPON--

FRED N. HENDON,

called as a witness on behalf of the Government, having first been duly sworn, was examined and testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Fred N. Hendon, Birmingham, Alabama. Plant manager, duPont Company Birmingham Works.

Hendon - direct

MR. MORRIS: Your Honor, there are several objects inside this previous exhibit which I would like marked as a composite exhibit.

THE COURT: All right, sir. They will be marked as a composite exhibit. If there are separate objects, it is probably better to designate them A, B, C.

MR. MORRIS: They are all alike, sir.

THE COURT: All right, sir.

DIRECT EXAMINATION

BY MR. MORRIS:

Q How long have you been employed in your present position?

A At the Birmingham Works, some sixteen years.

Q Mr. Hendon, are you acquainted with Special Agent Geary of the FBI?

A Yes.

Q During the month of June of this year, did you have occasion to see Mr. Geary?

A Yes.

Q Would you relate for us what happened on that occasion?

Hendon - direct

A Mr. Geary visited the plant and asked if we could make a simulated dynamite for the FBI. I told him that we could but we would have to get the concurrence of the home office. We got the concurrence of the home office and made some simulated dynamite for Mr. Geary.

Q Did you make this dynamite yourself?

A It was made under my direction.

Q What directions did you give, sir?

A To two of our men--our foremen--I asked them to make a simulated dynamite, and we agreed on the formula that we would use.

Q What formula, sir?

A Well, it is inert ingredients comprising salt, starch, another combustible and some engine oil.

Q Did you give your people any other instructions with regard to it?

A Yes, sir. By agreement with the home office, I had suggested that we mark it in some manner that it could later be recognized as far as we were concerned, so that if it did get into

Hendon - direct

legitimate trade, it could possibly be identified; at my suggestion, we put a "D" on each side of the sticks and on the box.

Q Referring to this "D," is this a marking that is generally used to designate simulated dynamite?

A No. As far as I know, this was the first time that the "D" had been used in marking simulated dynamite for exhibition. So we put the word "Dummy" in large letters across the stick and on the box.

Q Aside from the "D" which appears on these sticks that you mentioned, what other distinction is there, if any, from real dynamite?

A It is a duplicate of the markings that were used on the real dynamite.

Q After giving these instructions, was the simulated dynamite manufactured in accordance with your instructions?

A Yes.

Q Did you inspect it?

A Yes, in my office.

Hendon - direct

Q Then what did you do with it, sir?

A I turned it over to Agent Eubanks, as I recall, in my office.

Q How much of it was there?

A As I recall, there were two boxes totalling, let's say, a hundred pounds.

Q Did you have occasion thereafter to have simulated dynamite made?

A Yes. Mr. Geary called again shortly thereafter and asked if we would make up another quantity. Here again we got the concurrence of the home office and manufactured it exactly as at first and turned it over to Mr. Geary.

Q Was this also marked in the same manner, sir?

A Yes.

Q I show you Government's Exhibit 45-A for identification and ask you whether you can identify that.

A Well, it looks very much like the cartridge that we used. I frankly do not see the marking. They are very faint here. Yes, this is our

Hendon - direct

marking.

Q You say that is your marking. For what, sir?

A Red Cross Extra 50.

Q Does that have the "D" on it which you mentioned before?

A I think I can see it right in this location. It is somewhat faint, however.

Q It is there?

A Yes.

Q From examining this exhibit which I just showed you, can you determine whether or not that was manufactured in your plant?

A Yes, sir.

THE COURT: You had better come down. Are you talking about that single stick or the rest of it, too? If you are talking about the rest of it, you had better go down there and look at it.

BY MR. MORRIS:

Q Why don't you come around and look at it?

A Yes, sir.

Hendon - direct

THE COURT: How many sticks are down there?

THE WITNESS: I didn't count them.
Shall I count them?

THE COURT: Have you looked at each and every one of them?

THE WITNESS: Yes, sir.

THE COURT: All right.

BY MR. MORRIS:

Q Can you state that all of these were manufactured in your plant, sir?

A Yes, sir.

Q I show you Government's Exhibit 19 and ask you whether or not this box is similar to the one which you turned over to the FBI agents containing these sticks of dynamite.

A Yes, sir.

MR. GREENSPAHN: May it please the Court, I am going to object and ask that the answer be stricken, because the question was whether the box is similar to these exhibits which are not yet in evidence. Secondly, it is not material or relevant

Hendon - direct

whether it is similar. It is material and relevant only if that is allegedly the box in which the exhibits, which are not yet exhibits, were delivered in.

THE COURT: I will sustain the objection to the question.

I will permit you to ask him if that box is similar to the box in which the simulated dynamite which he manufactured was packaged.

BY MR. MORRIS:

Q Would you answer that question?

A It is. It is the type and number of box that we used for that grade of dynamite.

Q With regard to this simulated dynamite which you turned over to the Special Agent of the FBI, has any such dynamite or simulated dynamite marked in this manner been manufactured by your plant before or since?

A Not to my knowledge.

Q Are you in a position to know that?

A Yes, sir.

MR. MORRIS: You may inquire.

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Hendon - cross

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q How many plants does duPont have in which the manufacture of explosive materials takes place?

A Three others other than the Birmingham Works.

Q Where are they located, sir?

A One is in duPont, Washington; one is in Louviers, Colorado, and another one is in West Virginia.

Q And have you, sir, ever before either participated in the making of or had anything to do with the making of simulated dynamite?

A Yes. We make exhibits up for the police departments for lectures on safety, along with dummy blasting caps. We also use a simulated dynamite to run a machine in after it has been overhauled to be sure your bearings are okay.

Q You did manufacture it before and probably after the manufacture of the simulated dynamite that you are referring to now?

Hendon - cross

A I don't recall any before. Certainly we have in the past, in my experience, for the purposes that I mentioned.

Q Now, sir, showing you again the exhibits for identification--I'll just take one at random. Were all of the sticks--and for want of a better word--that you prepared the same dimensions, the same size?

A Oh, yes.

Q And did they have a uniform weight to them?

A I think so, yes. The powder has a certain density; so it is bound to come out approximately correct.

Q Do these sticks that you have seen lying on the floor here resemble the sticks that you saw as you transferred them to Mr. Geary and the other special agents?

A Yes, sir.

Q Do the wrappings of the sticks appear to be about the same as they were when you saw them?

A Well, they are much dirtier now, of

Hendon - cross

course.

Q Let me ask you this about the wrapping.
What are the materials of the wrapping?

A A Manila and a craft paper.

Q Is there any process that you are aware of that that paper has been put through prior to the time that it was used for the wrapping of these things?

A Well, no. It comes directly to the plant from the paper mill, if that answers your question.

THE COURT: Is it waxed or water-proofed or any other things done in the manufacture of it? In other words, do you use any special paper as distinguished from ordinary brown wrapping paper?

THE WITNESS: Yes, sir. This is a special paper, and it is waxed. And after the tubes are wound, it goes through an oven in which the wax is sprayed on the tubes.

BY MR. GREENSPAHN:

Q You referred to motor oil, I believe,

Hendon - cross

as being part and parcel of the simulated dynamite?

A Yes, sir.

Q What is the purpose of the motor oil?

A Well, that is to simulate and give it somewhat the appearance of nitroglycerin.

Q Is this dry or in a liquid state as opposed to a solid state?

A Well, it coats the dry materials in the stick.

Q To your knowledge, does any of that motor oil, as a rule, seep through and come out onto the face wrapper itself?

A I would not think so. That could only be determined after a prolonged storage. However, we use a very small quantity, and I would say that it may under certain storage conditions--hot storage, for instance.

Q Based upon your length experience in the business, would you look at this piece and tell me if any of this dirty marking or any of this apparently greasy substance--is any of that motor oil?

A That can best be determined by smell,

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Hendon - cross

and it smells like oil to me, frankly.

Q It does smell like oil to you?

A Yes.

Q Would the appearance, then, of the wrapper be consistent with your statement that it does smell like some oil has gotten out?

A It smells like oil, and certainly the appearance is not the same as it was originally.

Q Between the time that the objects that are on the floor were manufactured and the time that they were transmitted to the special agent of the FBI, how many people at duPont had contact with them sufficiently, were enough to have placed their hands on them?

A I would say a minimum of three. I have no knowledge of any more. That is the two foremen and myself. And then, of course, Agent Eubanks went over them with me when we had it in my office.

Q Is your plant engaged in any government work? I do not want to go into any detail, but are you engaged in Government work?

Hendon - cross

A Yes.

Q Are your employees required, at the time of their hiring or at any other time, to have their fingerprints taken and filed with the Federal authorities?

A Oh, yes.

Q Were your employees, during the period that this exhibit was manufactured, all of record with the Federal authorities, probably the Federal Bureau of Investigation, as to fingerprints?

A I'm reasonably sure they were or are.

Q All together, how many sticks of simulated dynamite were prepared?

A Well, theoretically this runs a little over ten sticks per case. I would imagine this ran a little bit light. There may be twelve sticks. I don't recall counting them exactly, however.

Q And they were all the same size?

A Yes.

Q In your examination of the sticks of simulated dynamite that lie in front of you, did you notice any difference in the size of any of the sticks?

Hendon - cross

A No.

Q Do you not, sir, remove from the canister some sticks and then put them back in as you--

A Do you mean in the canisters?

Q Yes. There was one, I think, that I seem to remember was appreciably shorter than the others. Is this the one that you are referring to?

A Yes.

Q The difference appears to be some four to six inches?

A Around six.

Q In size?

A Yes.

Q You did not manufacture any of this size--that is, the smaller size?

A No. They were all the same size as manufactured.

Q Did the special agent with whom you dealt or any other representative of the Government place a written order with you for the purchase of these manufactured articles?

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Hendon - cross

A No.

Q Is there any written order or memorandum reflecting the order of purchase or the sale?

A No.

Q Were these articles paid for or were they gratuitously furnished?

A They were furnished.

Q Mr. Hendon, is your job as an administrator or are you completely familiar with the workings of explosives and dynamite?

A My work during this period of time is largely administrative, although I am reasonably familiar with some of the details, yes.

Q This 50 percent Red Cross dynamite that the box bears the label of, what kind of dynamite is that? Does it have a generic name?

A Dynamite is the most common name. There are two types of dynamite: There is the gelatin type and then what we term regular dynamite in which the ingredients are all dry, and it has a granular feel as opposed to a gelatin dynamite which

Hendon - cross

has the appearance of gelatin, a cohesive mass.

Q The kind that would come packaged in the kind of wrapping or package that these are?

A This is a granular dynamite.

Q Are there any other types of dynamite than gelatin or granular?

A Yes, there are a few; not that we make them, but there are some different types. We use nitroglycerin as a sensitizing agent, whereas, let's say, Trojan Powder uses a nitro starch.

MR. GREENSPAHN: I have no further questions, your Honor. And I would ask the right to hold this witness.

THE COURT: All right, sir.

MR. GREENSPAHN: Thank you.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. MORRIS:

Q With regard to the discoloration which you mentioned on these sticks, do you know from your own knowledge how these happen to become discolored?

A No, I don't know, although I have seen

Hendon - redirect

similar powder that was recovered from coal mines.

Q With reference to this stick which is shorter than the others, did you examine it and determine whether or not it was one of those which was manufactured in your plant for the FBI?

A I'm reasonably sure it was, yes.

Q Does it appear to have been altered since you turned it over to the FBI?

A Well, one end has been mutilated, let's say. I frankly do not see the cartridge markings on here.

Q What is this right here?

A Frankly I can't see. It appears to be some marking under there, but they are not too distinguishable.

Q With reference to the manufacture of the dynamite and simulated dynamite by other plants of duPont, do you have any particular reason to believe that this is the only dynamite which has been marked with the "D"?

MR. GREENSPAHN: If it please the Court, objection. His belief is a conclusion.

Hendon - redirect

THE COURT: I will sustain the objection as to what he might or might not believe.

You can rephrase your question in a more positive manner, if you wish.

BY MR. MORRIS:

Q How do you happen to arrive at the decision to mark this dynamite with "D"?

A Well, I agreed with--

THE COURT: He has already testified that basically in exhibitions, et cetera, they mark it "Dummy." In this particular instance he said that they decided on "D"; is that correct, sir?

THE WITNESS: Right, sir.

THE COURT: Let us proceed.

MR. MORRIS: No further questions, your Honor.

THE COURT: All right, sir. I'm sorry I cannot excuse you, sir. You will have to remain around a little while subject to call.

THE WITNESS: May I ask one question, please? Do you have any idea what time it will be? I have a plane reservation this evening to fly out.

Do you have any idea when I would be through?

MR. GREENSPAHN: Your Honor, I would be in a better position to advise the Court and the witness at the end of the lunch break.

THE COURT: All right, sir. Fine.

THE WITNESS: Very good. Thank you.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

JOHN JAIDINGER,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: 5719 West Bernice,
Chicago. Self-employed manufacturer.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Please state your full name.

A John Jaidinger.

Q How long have you been so employed,

Jaidinger - direct

Mr. Jaidinger?

A About nineteen years.

Q What is the nature of your business, sir?

A Manufacturer of relays and switches.

MR. MORRIS: Will you mark this as a Government's exhibit for identification?

(Thereupon the documents referred to were marked as Government's Exhibits Nos. 46 and 47 for identification.)

BY MR. MORRIS:

Q Mr. Jaidinger, I show you Government's Exhibits 46 and 47 for identification and ask you whether you can identify them.

A I can.

Q Mr. Jaidinger, are these records which are kept by your firm in the normal course of your business?

A Yes, sir.

Q Is it the normal course of business for your firm to keep records such as this?

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U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Jaidinger - direct

A Yes, sir.

Q Are you a custodian of these records?

A Yes.

Q Were they taken from the place where they are usually kept?

A Yes, sir.

Q Were they made and kept at or about the time that they purport?

A Yes.

Q Could you explain any markings or symbols on the documents which are not readily apparent? Just answer yes or no, please.

A Yes.

MR. MORRIS: I will offer these as Exhibits 46 and 47 in evidence.

MR. GREENSPAHN: Your Honor, they are not material and they are not relevant.

MR. MORRIS: They will be connected up.

MR. GREENSPAHN: And there has been no foundation and he has shown no connection.

MR. MORRIS: They will be connected up.

THE COURT: Let me look at them.

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MR. GREENSPAHN: And also one of these two documents is not the best evidence. It is obviously a copy and not the original.

THE COURT: This one, I assume, is what counsel is talking about. I don't know whether it is a copy or that it was made at the time the original was made or what. There is no evidence in here about that at all.

BY MR. MORRIS:

Q The one which is identified as a packing slip, how is that maintained? Where is the original?

A The original is usually sent to the customer.

THE COURT: This is a copy of the original?

THE WITNESS: This would be our copy.

THE COURT: Well, so far as I am concerned, they have not been identified with any of these defendants at the present time. Upon the Government's assurance that they will be connected up, I am going to overrule the objection and permit them to

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be received in evidence as Government's Exhibits 46 and 47. But if they are not connected, then I am going to strike them from the record.

(Thereupon the documents referred to were received in evidence as Government's Exhibits 46 and 47.)

BY MR. MORRIS:

Q Mr. Jaidinger, I show you Government's Exhibit No. 47 and ask you what that is.

A This is a reply to a letter previously where they had inquired about the price of--

MR. GREENSPAHN: Objection.

THE COURT: I will sustain the objection to it.

THE WITNESS: They were inquiring about the price.

THE COURT: I have sustained the objection to it, sir. You shall not testify until such time as you are asked another question.

BY MR. MORRIS:

Q I show you Exhibit 46 and ask you what that is, sir.

Jaidinger - direct

A. A copy of an original--

THE COURT: He has testified it is a copy of an original record. The original went with this document. Both documents, so far as I am concerned, are self-explanatory and I do not want any further questions about them unless it is necessary to connect them up with some individual or to explain something on there that is not evident to persons of ordinary intelligence. This jury is above ordinary intelligence, and I do not want to waste their time with a lot of useless questions about what that says.

MR. MORRIS: Your Honor, I would like for the witness to explain what the order is for, what the items are.

THE COURT: He can explain what a relay switch is and what it is for, et cetera. That is all right.

BY MR. MORRIS:

Q Would you explain the entry here which says "100 OHM" et cetera?

A. That designates the resistance of the winding on this particular relay that was purchased.

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Jaidinger - direct

Q What is a relay, sir?

A A relay is a remote control or an electrically controlled switch.

Q What is it used for?

A Electronic circuits, for controlling other functions.

MR. MORRIS: Will you please mark this for identification?

(Thereupon the device referred to was marked as Government's Exhibit No. 48 for identification.)

BY MR. MORRIS:

Q I show you Government's Exhibit for Identification No.48 and ask you whether you can identify this object.

A I see our relay in here. This is ours.

Q The small piece is the relay?

A Yes.

Q Is that the same as the items that are described on this packing slip?

A Right.

Jaidinger - cross

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Is there a description for the type of relay that you have identified as Exhibit 48 for identification?

A It is referred to as our Gem relay, a radio-controlled relay, model control.

Q I was sitting at some distance from you. Is that what you are talking about?

A Yes, sir.

Q This piece here?

A Yes, sir.

Q What are the markings on it?

A "JAICO." That is a shortening of our name--Jaidinger Manufacturing Company. We have literature that we have copies of here.

Q That is an identifying feature as to your product?

A Yes, sir.

Q In the calendar year of 1968, how many of these relay devices were manufactured by your

Jaidinger - cross

company?

A Oh, probably in the neighborhood of--
do you mean on this type?

Q No, sir. In toto, how many?

THE COURT: First of all, in your
opinion--

THE WITNESS: Probably in five thousand
or ten thousand quantity.

BY MR. GREENSPAHN:

Q How do you market your products?
Do you have distributors?

A No. We sell outside of this particular
relay. We used to sell to the distributors. Since
the transitors came in, it kind of cut down on the
sales of the relay itself.

Q Are you one of the principal
manufacturers in the midwest of this type of relay?

A Yes.

Q Are there manufacturers throughout the
country other than in the midwest that manufacture
this type of relay?

A Not exactly like that, no.

Jaidinger - cross

Q Is this a patented device? Is this something you hold a patent on?

A It is not exactly patented, no.

Q Are there any outlets for the sale of relays of this type in the South Florida area that you are aware of?

A Not that I am aware of. We haven't sold to any distributors for some time now. We get all inquiries directly to the factory.

Q By mail?

A By mail and telephone if it is local.

Q Do you always make a note of such telephone inquiries as well as those received in the mail?

A Not telephone inquiries.

Q Did you review your packing slips for the calendar year 1967 and 1968 to determine how many of this type of relay were shipped out and to what places in the United States they were shipped?

A No.

Q This relay that you have identified, then, is not unique? This is not one of a kind?

Jaldinger - cross

A What do you mean by "not one of a kind"?

Q There are some five thousand or ten thousand of them manufactured by you, a good many of which have been either delivered or shipped to places in the United States?

A Yes.

Q Relays can be used for many electronic purposes?

A Right.

Q They are found very often, are they not, for instance, in mechanical toys?

A Yes, although we don't make them for toys. These relays are too expensive.

Q What do you make them for?

A Garage door openers is one big item-- radio-controlled garage door openers.

Q What else?

A In some cases we don't even really know what they are being used for, because of secrecy.

Q Do you sell them to the United States Government?

Jaidinger - cross

A No, not really, no, not that I know of. In a few instances we have sold them for some products they have for a moon--I don't know exactly what they were used for at all.

Q Were they shipped to Florida, to Cape Canaveral or in or about the Florida area?

A No. We occasionally sell some to the airplane manufacturers like Boeing, but it has been some time.

Q Are these relays identifiable each from the other, or are they identifiable only as being of your manufacture?

A This particular type we identify as a radio-controlled relay because of the shape of the contacts, the moving contacts in it, and also by checking the resistance of the coil.

Q I am not referring to the mechanical--

THE COURT: What he is talking about is this: Suppose we say you make a hundred of them at one time. Can you pick out any one of that hundred at a later time and say "This is one of the hundred that we manufactured or that we sold for that particular

Jaidinger - cross

firm"?

THE WITNESS: No.

THE COURT: That is what you are asking for?

MR. GREENSPAHN: Precisely, your Honor.

A No, we can't do that.

BY MR. GREENSPAHN:

Q Did you check your records for any further documents pertaining to the transaction that is set forth in the two documentary exhibits that you brought with you?

A I did.

Q Did you determine whether or not payment had been made??

A Yes.

Q Did you determine the manner and method of payment?

A It was a money order. I have all the records here.

Q May I see them, sir?

A This is the entry into the routing slip.

Jaidinger - cross

This is the letter which we received the check in.

Q Did you retain the envelope of the letter dated March 4, 1968?

A No. What we usually do on that, a letter comes in for one or a dozen relays. I just mark the price on it and send it back right on the letter.

Q Directing your attention, sir, to Government's Exhibit No. 47, the letter of March 4, 1968, is this the original that was received by you?

A A copy of the original.

Q Where is the original? You can look at it more closely to determine if you are right about that.

A This is a copy of the original. Now, the gentleman that called on me--I gave the original to Mr. Philip Tracy, Jr., of the FBI, and I made a copy to retain for our own files.

Q What you are showing me is a photostatic copy?

A A photocopy of the original. And the FBI office has the original.

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Jaidinger - cross

Q Mr. Jaidinger, referring to Government's Exhibit No. 47 which I hold here, is this the original or not?

A No, that would not be the original.

MR. GREENSPAHN: Your Honor, I then move to strike it from the evidence and ask that the Clerk be directed to strike it from his exhibit list. The original obviously is in the possession of the Government and this is not the original.

THE COURT: What do you say?

MR. BIERMAN: Your Honor, this is the original.

THE COURT: Let me look at it.

MR. BIERMAN: It has been processed since Mr. Jaidinger has seen it. It has been processed for fingerprints. That is why he does not recognize it. But that is the original. The signature is written in ink.

MR. GREENSPAHN: It looks like an original, but the testimony is that is not the original letter.

MR. BIERMAN: We still have some

Jaidinger - cross

redirect available, your Honor.

THE COURT: All right, sir. I will reserve ruling on the motion at the present time.

MR. GREENSPAHN: Thank you, sir.

BY MR. GREENSPAHN:

Q Mr. Jaidinger, you have handed me what purports to be your complete office records relative to the transaction which we are now discussing. Would you, sir, tell me what this instrument is that I am showing you?

A This has nothing to do with the--these are different deposits that were made on this particular day--Transmarine, Victor Comptometer, and the other one is from Teresa Caballero.

Q So that the exhibits that I referred to has nothing to do with this?

A This is the c.o.d. tag. No. This is for Transmarine. That has nothing to do with it. This is information that my wife took down after the money order came in, the number of it, and this is all we got to keep.

Q To your present knowledge, were any of

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Jaidinger - cross

the shipments that are reflected in your banking records for the type of relay that we have seen, other than the one that is referred to, in the packing slip or any other document?

A How do you mean?

Q Referring to Victor Comptometer and Transmarine, did any of those relays get sent to them, for instance, or any of them on the same day?

A No. This wouldn't indicate the shipping date. These are the checks we collected for the two or three days and we put it in the deposit slip and it was taken to the bank.

Q Do you know of your own knowledge whether or not slips were made on the same day of the shipment as the identified shipment to any other sources other than the one that is referred to in Exhibit 47?

A The shipment was made on March 4th.

Q On that date were shipments of these relays made to other places and other companies and other persons?

A I couldn't say whether it was the same

Jaidinger - cross
type relays that were made on that particular day.
I would have to go through all our records.

MR. GREENSPAHN: That is all I have,
sir. Thank you.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Jaidinger, I would like you to
carefully examine what has been marked Government's
Exhibit No. 47 and compare it with the copy which
you retained and determined, sir, other than the
purple markings on here--first of all, do you know
how these purple markings came on here?

A No, I don't.

Q All you know is that you surrendered
the original?

A And Mr. Tracy signed it that he
received it.

Q Would you examine this document, sir,
and note the signatures other than the stamp which
the Clerk has put on, particularly here and--

A It is identical to what I have here.

Q But, sir, other than the purple markings,

Jaidinger - redirect

are you able to determine if that is an original or a duplicate?

A Well, I don't know what the discoloring is.

Q Other than the coloring--

THE COURT: Forget about that.

THE WITNESS: Other than the coloring, I would say it's the original.

THE COURT: Look at the writing and any other things. What he is asking you now--just forget it has all those markings on it. Look at it, look at the typewriting.

THE WITNESS: I would say it is the original. This is the one I surrendered.

THE COURT: All right, sir.

I will deny the motion to strike.

MR. BIERMAN: I have nothing further.

MR. GREENSPAHN: Your Honor, may I be extended the courtesy of one moment, please?

THE COURT: Yes, sir.

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q From the time that Government's Exhibit

Jaidinger - recross

No. 47 was received by your company until the time it was transmitted to Agent Tracy of the FBI, how many people actually handled the instrument?

A Three at the most.

Q Are your people required to be fingerprinted for the Federal authorities because of any work you may do for the Federal Government?

A No.

MR. GREENSPAHN: I have nothing further. Thank you.

THE COURT: All right, sir. Thank you. You may be excused.

(Witness excused)

THEREUPON--

MARGARETTA CABALLERO,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified through the interpreter (Raphael M. Campi)
as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Margaretta Caballero,

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Caballero - direct.

3650 Northwest 18th Terrace. My occupation is medical technologist.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mrs. Caballero, do you speak English fluently or would you be better off to have an interpreter translate my questions and your answers?

A I think it is better if I got an interpreter.

Q Mrs. Caballero, are you acquainted with the defendant Orlando Bosch Avila?

A Yes.

Q How long have you known Dr. Bosch?

A All my life.

Q Do you consider him a friend of yours?

A Yes.

Q I show you Government's Exhibit 47 and ask you whether or not you have seen that before.

A I saw it here when it was shown to me.

Q Did you write that letter?

A No.

Q Directing your attention to the month

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Caballero - direct

of April of this year or in that vicinity of time, did you have occasion to see and talk with Dr. Bosch?

A I have seen him on different occasions.

Q In the month of April did you have occasion to discuss with Dr. Bosch a package?

A Yes.

Q Would you relate that discussion, please?

MR. GREENSPAHN: Your Honor, a proper foundation must be laid for this line of questioning as to where and when.

THE COURT: I agree with you. Where, when and who was present?

BY MR. MORRIS:

Q Will you state where this particular conversation took place?

A At the Riverside Post Office.

Q When, as best you remember?

A The first months of the year--March or April.

Q Would you please relate that discussion?

A He asked me if he could use the post

Caballer o - direct
office box. I said yes.

Q For what purpose?

A I didn't ask him.

Q Did you subsequently receive a package?

A Yes.

Q What did you do with it?

A I put it in the car until I saw him.

Q Then what did you do with it?

A I gave it to him.

Q When you say "him" are you referring to
Dr. Bosch?

A Dr. Bosch.

Q Would you describe that package,
please.

A A small box. I did not open it.

Q About how many inches in dimension?

A About four by three inches.

13-2 THE COURT: Did the box have any
return address on it that you could see?

THE WITNESS: I don't recall.

BY MR. MORRIS:

Q Mrs. Caballero, have you ever ordered

Caballero - direct

any merchandise from the Jaidinger Manufacturing Company?

A I don't remember.

THE COURT: Maybe if you tell her what they sell she might be able to remember.

BY MR. MORRIS:

Q Have you ever ordered any electronic equipment or relay devices from the Jaidinger Manufacturing Company?

A No.

MR.MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did Dr. Bosch ever indicate to you that his mail was being opened and that is why he wanted you to let him use your box?

A No.

MR. GREENSPAHN: I have nothing else.

REDIRECT EXAMINATION

BY MR. MORRIS:

Q What is your post office box number?

A 715.

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MR. MORRIS: No further questions.

THE COURT: All right, ma'am. Thank you. You may be excused.

(Witness excused)

THEREUPON--

JAMES P. DONNELLY,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: James P. Donnelly,
4850 Piety Drive, New Orleans, Louisiana. Customs
Marine Officer, Port of New Orleans.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q What is the nature of your work,
Mr. Donnelly?

A I work in the Customs House, and the
various vessel agents bring the master or one of the
officers from the ship in to make formal entry and
to clear vessels in and out of the Port of New Orleans.

Q Do you, sir, then keep records of all

Donnelly - direct
vessels which enter the Port of New Orleans?

A Yes, that's right.

Q Did you bring, sir, certain of these documents with you?

A Yes, I did.

Q Would you produce them?

A (Producing documents) This is the entrance and clearance on the LANCASTRIAN PRINCE.

Q Referring to the documents which you just handed me, which are Government's Exhibit No. 49 for identification, are these documents kept in the regular course of business, sir?

A Yes, that's right.

Q Is it the regular course of business to keep such documents?

A Yes.

Q Are you a custodian of these documents?

A Yes, I am.

Q As to the events reflected on there, were they recorded on or about the time that they reflect?

A Yes, that's correct.

Donnelly - direct

Q Were they removed from the files by you, sir?

A Yes, I personally.

Q Would you, sir, explain to us what Government's Exhibit 49 is?

A Well, these--

MR. BIERMAN: I will offer Government's Exhibit 49 into evidence, your Honor, subject to connecting it up.

MR. GREENSPAHN: I object because I haven't got the slightest idea what they are.

THE COURT: All right, sir. You take a look at them and we will see.

Are documents of this nature required by law to be made and given to customs or are they prepared by customs and kept as part of the official records?

THE WITNESS: Well, these are made up on the ship and then they are submitted to us.

THE COURT: I did not ask you where they were made up. I asked is there any law or regulation which requires documents like these to be

Donnelly - direct
made and given to Customs?

THE WITNESS: Yes. The Customs
regulations require it.

BY MR. BIERMAN:

Q Did you personally receive these
particular documents, sir?

A Yes, I did.

MR. GREENSPAHN: I object as not
relevant or material, your Honor.

THE COURT: All right, sir. Subject
to their being connected up, I will admit them upon
the basis that they are official documents.

(Thereupon the instruments
referred to were received in
evidence as Government's
Exhibit No. 49.)

BY MR. BIERMAN:

Q From these documents can you determine
when the vessel LANCASTRIAN PRINCE was in the Port of
New Orleans?

A Yes, sir, I can.

Q When was that, sir?

Donnelly - direct

A August 23, 1968.

Q How long did it remain?

A Well, they cleared the following day, the 24th, and they are permitted forty-eight hours after that to leave.

Q So then, sir, your testimony is she was there on the 23rd and the 24th and sometime within the next forty-eight hours, insofar as you know?

A Yes, that's right.

Q Do you know where the ship was coming from, sir?

A Yes. Coming from Houston, Texas.

MR. BIERMAN: I have nothing further. You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Are you totally familiar with the docking facilities at New Orleans at which the vessel LANCASTRIAN PRINCE was berthed on August 23?

A No, sir. I work in the Customs House. I did not see the vessel.

Q Do you know the area in which the ship

Donnelly - direct

was berthed?

A No.

Q Have you been on the docks in New Orleans?

A At one time I did work on the docks, yes.

Q Do you know what the number of people was that were in and about that vessel during the period of time that it was in New Orleans?

A No, sir, I don't.

THE COURT: Can you tell from these documents--you should be able to--the particular location where this ship was berthed?

THE WITNESS: Yes. It is shown on the information sheet where the vessel was docked.

THE COURT: Looking at that, can you tell us in relation to where that area is with which you are familiar?

THE WITNESS: Yes. It is the Governor Nichols Street Wharf. I am familiar with where that is in relation to the Trade Mart Building.

THE COURT: Is it above or below that?

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Donnelly - cross

THE WITNESS: Well, it is down river approximately ten blocks.

THE COURT: Within a block fronting that warehouse there is a big public street, is there not?

THE WITNESS: Yes, sir.

THE COURT: That is what counsel wants to ask you about. Go ahead and ask him.

BY MR. GREENSPAHN:

Q I have no knowledge of the area; so will you describe to me the berthing area of this vessel? Is it in an enclosed area, is it open, how far is it from the street or avenue closest to it? Give us some idea. In other words, what type of area is this?

A Well, the vessels tie up on the Mississippi River. And it is a wide area. I would say it is approximately half a block wide, and it sits back from the thoroughfare.

THE COURT: Well, you have warehouses in between that and the thoroughfare?

THE WITNESS: Yes, sir. You have a

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Donnelly - cross

warehouse area and railroad tracks and then the--

THE COURT: What he wants to know, is it an area where the public can have access or is it fenced in so that nobody can get into it or just what the situation is the best you remember.

THE WITNESS: No, sir. I would say the public could have access to the vessel, although they have guards posted near the gangway so that not everyone can gain access.

BY MR. GREENSPAHN:

Q In that entire wharf area, could you walk up and down?

A Yes.

Q I can get there and drive up in an automobile and walk by between the warehouses and up and down that dock area so far as the dock area is concerned?

A Yes.

Q To your knowledge, were there any crews working on the vessel--and I mean stevedoring or dock workers or crews working on the vessel during the two or three days that it was in that port?

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Donnelly - cross

A Yes. They loaded cargo while they were in New Orleans; so they would have stevedores working on the vessel.

Q Does Customs control or secure the area when people are working near or on flagships of foreign countries? In other words, do you have people checking out the people that are going in and about the vessel?

A No, they don't do that.

Q Do you have people checking out the people who are coming off the vessel?

A Yes. The enforcement officers do try to watch that.

Q Would you mind stepping up around and coming over here. Directing your attention to Government Exhibit No. 45, which is the metal canister, noting the size of it, sir, would an object of that shape, either in that form or in a package or carton be permitted aboard a foreign flagship such as the LANCASTRIAN PRINCE without inspection by the Customs officers on duty at the berthing area of the vessel?

A No, sir. I don't believe that they

Donnelly - cross

would.

THE COURT: I believe that the Customs officer would check anything resembling this.

MR. GREENSPAHN: That is all I have, sir. Thank you.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Donnelly, a Customs officer would search or would not search the outside of a ship, would he, or that part that was under water?

A No, sir, unless--

THE COURT: He might if he had some special reason to do it. But normally you would not do it, is that right?

THE WITNESS: Yes, sir, that's right.

BY MR. BIERMAN:

Q I show you a photograph marked Government's Exhibit 50 and ask you, sir, to examine it closely. Are you able to determine, sir, what port this was taken at?

A No, I'm afraid I couldn't identify the

Donnelly - cross

port.

Q Look at the skyline behind it. See if you recognize that.

THE COURT: Let me look at the thing. Go ahead.

BY MR. BIERMAN:

Q Are you able to recognize it?

A No, I'm afraid not.

MR. BIERMAN: I have nothing further.

MR. GREENSPAHN: May I see that photograph?

Is this the LANCASTRIAN PRINCE?

MR. BIERMAN: Yes.

MR. GREENSPAHN: This has not been marked yet, has it?

MR. BIERMAN: It is No. 50 for identification.

MR. GREENSPAHN: Based on your training as a Customs Agent, are you able to indicate to us which is the starboard and which is the port side of the vessel that is depicted in this photograph?

THE WITNESS: No. My work is mainly

Donnelly - cross

I work in the Customs House, and we have very little to do with the vessel itself other than just the papers that are presented.

THE COURT: He will stipulate that the starboard side is the right side looking forward and the port side is the left side looking forward toward the bow of the vessel.

MR. GREENSPAHN: Thank you, sir.
That is all I have.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen of the jury, the Court is going to be in recess for about five minutes. During that time, the instructions I have previously given you are, of course, still applicable.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

Siffredo - direct

THEREUPON--

ARMANDO GARCIA SIFFREDO,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified through the interpreter (Raphael M. Campi)
as follows:

THE CLERK: State your name, address
and occupation.

THE WITNESS: Armando Garcia Siffredo,
newspaperman. 3001 Southwest 77th Court.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Siffredo, what newspaper do you
publish?

A Patria.

Q Do you have with you certain articles
which were published in your newspaper?

A In the citation I received, they asked
me to bring these papers; I have brought them.

Q Are these copies, sir, kept in the
regular course of the business of your newspaper?

A We file all copies of all papers we

Siffredo - direct

edit.

Q Are you the custodian of these files?

A I am the director and editor of the newspaper, but there is a man who is in charge of the files. But everything there is under my command.

Q Are these filed at or about the time they are printed?

A Yes.

Q I call your attention to the edition of June 5, 1968.

A Yes.

Q I call your particular attention to an article which begins "ASUME." It says "Asume la responsabilidad de los atentados dinamiteros a barcos."

A Yes.

Q Would you translate for us what that says, Mr. Siffredo?

MR. GREENSPAHN: If it please the Court--

THE COURT: I am going to sustain the objection.

Siffredo - direct

BY MR. BIERMAN:

Q Are you personally, sir, familiar with the printing of this article? Do you have a personal recollection of this edition?

A Yes.

Q Was this printed under your supervision?

A Yes, sir.

Q Where did you receive the information to print this article?

A I received it by mail.

Q Did this article accurately reflect the information which was given to you?

A Yes.

Q What did you do with the material which was received by you?

A I transferred it to be copied and to be published in the paper.

Q Calling your attention, sir, to two photographs, one in the upper left-hand corner with the words in English "GRANWOOD" and the one lower down with the words "ASAKA MARU," where did you receive these photographs?

Siffredo - direct

A Together with the information.

Q I note, sir, at the bottom of this article is a writing which appears to be in some sort of a script. Was this, sir, on the release which you received?

A That is the signature that appeared in the information I received.

Q How is that signed, sir?

MR. GREENSPAHN: Objection. It is all hearsay and it is all by leading questions. He can try until the cows come home and he is not going to take it out of the hearsay classification.

THE COURT: I am going to sustain the objection.

MR. BIERMAN: Will you mark this, Mr. Clerk, please?

(Thereupon the newspaper referred to was marked as Government's Exhibit No. 51 for identification.)

THE COURT: Not only on the grounds it is hearsay but on the grounds, if it is admissible at all, it shows how it is signed.

Siffredo - direct

BY MR. BIERMAN:

Q All of this testimony which you have just been referring to--this article is found in what has now been marked as Government's Exhibit No. 51 for identification?

A Yes, all that is there.

MR. BIERMAN: Will you mark this as Exhibit No. 52, please?

(Thereupon the newspaper referred to was marked as Government's Exhibit No. 52 for identification.)

BY MR. BIERMAN:

Q I show you what has been marked Government's Exhibit No. 52 for identification and ask you if you are familiar with the article which appears in the left-hand corner "Dinamitado buque merchanta japones."

A Yes.

Q Do you have a particular recollection, sir, as to how this article came to be published?

A It was sent by mail.

Q Was the photograph sent with it?

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Siffredo - direct

A In the envelope.

Q And the markings, sir, which appear on the top of the photograph--"Foto: Servicio Inteligencia Poder Cubano," were they on there when you received the photograph?

A This came with the photograph.

Q Does this article accurately depict what you received in the mail?

A What I received I published as news.

Q I call your attention to the edition of Wednesday, September 18, 1968, and ask you if you recognize this article in the left-hand corner.

A This is a completely different type of work because the photographs were taken by the newspaper photographer.

Q Did you receive any press releases on this, sir?

A Yes, I did. Ernesto was responsible in the name of Cuban Power.

MR. GREENSPAHN: If it please the Court, I move to strike. There has been no proper foundation laid for it. It again constitutes hearsay

Siffredo - direct

as to any of these defendants, and I would ask that the witness be instructed to respond only to questions and not to go beyond that.

MR. BIERMAN: This goes to claims that were sent into the newspaper which we will tie up with similar news releases that were found.

MR. GREENSPAHN: If it please the Court, it is all immaterial and irrelevant as to these defendants. I can pull out the Miami Herald or the Miami News today and show the Court a thousand and one things that are not material.

THE COURT: Gentlemen, I do not want any argument.

Basically, I will permit you to identify any of these things that you want to. At the present time I am ruling that they are hearsay and that they are not sufficiently connected with these defendants and, therefore, are inadmissible into evidence unless and until some further connection is shown. That will remain my ruling. You may, however, identify each and every one of them if you wish.

Siffredo - direct

BY MR. BIERMAN:

Q I show you what has been marked Government's Exhibit No. 54 for identification and ask you, sir, if you are personally familiar with the article which appears in the right-hand corner.

A Yes, sir.

Q How did that come to be published?

A I found this work in the newspaper office. It had been put through the mail slot in the door.

Q Were the photographs of the vessels included with that?

A Everything was in the envelope.

Q Did you change that in any way from when you received it?

A No, I did not change anything and it is conceded here that this are the declarations of the organization that sent it.

Q I show you, sir, what has been marked Government's Exhibit No. 55 for identification and ask you if you recognize this.

A What part?

Siffredo - direct

Q This article.

A Yes, I do.

Q How did that article come to be published?

A I received this notice from the newspapers from Puerto Rico, but not from any organization.

Q Showing you Government's Exhibit No. 56, the article in the lower right-hand half.

A This is a piece of news that was sent to the newspaper by mail by the organization.

Q In the same manner that you received the others?

A More or less the same; always the same system.

Q Were you ever informed, sir, who was sending these to you?

A No.

Q Did you ever give these original photographs to anyone?

A They were requested from me by the FBI.

Siffredo - direct

Q Did you turn them over?

A Yes, sir.

Q I show you what has been marked Government's Exhibit No. 57 for identification and ask you if that is one of the photographs?

A Yes, sir.

Q Did this typewriting appear on it at the time that you received it?

A Yes, sir.

Q I show you what has been marked Government's Exhibit No. 58 for identification and ask you if you recognize that, sir.

A Yes, I do.

Q When and where did you first see that?

A This is one which I published.

Q Is this one that you described as receiving it in the mail?

A Yes. This was requested from me by a member of the FBI who came to my office. It had been published.

Q And you recognize this particular document which is Government's Exhibit 58?

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Siffredo - direct

A Yes.

Q Did this signature at the bottom appear that way when you received it?

A Yes, sir.

Q Did you receive this similar signature on any other document?

A Yes, I did; and I published them, also.

MR. BIERMAN: I have nothing further.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q With regard to these various documents to which you have referred, sir, of your own knowledge do you know if any other persons or businesses received copies of those very same documents?

A Other newspapers received it and radio newscasts.

Q This was, then, what might be referred to as a press release, is that right?

A Exactly.

Siffredo - cross

Q Mr. Garcia Siffredo, do you know personally any of the nine defendants?

A Yes, sir.

Q Who do you know?

A Dr. Orlando Bosch, Gutierrez, Jorge Gonzalez whom I know about twenty years from Cuba. By sight I also know the one who is seated behind Orlando Bosch.

Q With particular regard to Dr. Bosch, do you know of your own knowledge and based upon your own investigations of him as to whether or not he has been an exemplary leader in the Cuban exile colony?

MR. BIERMAN: I will object.

THE COURT: I will sustain the objection to that question. That is not the proper foundation for general reputation.

MR. BIERMAN: May I ask that the jury be instructed to disregard that question?

THE COURT: All right, sir.

Ladies and gentlemen of the jury, that question has been objected to and I have sustained

Siffredo - cross

the objection. You will please disregard it.

BY MR. GREENSPAHN:

Q Are you aware, sir, of the reputation within the community--and particularly within the Spanish-speaking community of Dade County--as to the reputation of Orlando Bosch?

THE COURT: As to what?

BY MR. GREENSPAHN:

Q As to his veracity, credibility, and as to his sincerity?

MR. BIERMAN: Your Honor, this is quite a bit beyond the scope of direct examination.

THE COURT: Yes, sir. I agree with you.

MR. GREENSPAHN: I will withdraw the question.

THE COURT: All right, sir.

MR. GREENSPAHN: I have no further questions.

THE COURT: Redirect?

MR. BIERMAN: No questions.

THE COURT: All right, sir. Thank you.

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You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen of the jury, I am going to recess for a little bit longer today. I am going to recess until 1:45. During the recess, of course, the instructions I have given you will be applicable.

You may be excused until 1:45.

(Thereupon the jury was excused, pursuant to which the following proceedings were had outside of the presence of the jury:)

THE COURT: Will counsel approach the Bench, please?

Gentlemen, if counsel desires to present any arguments to me with respect to the admissibility of these matters, I will be glad to hear from you at 1:30 for the purpose of hearing any argument which might be directed to the admissibility of the news articles and the letters, et cetera, and any argument defense counsel wants to make in opposition to the Government's position.

I have tentatively ruled upon the

documents, but I will be perfectly willing to listen to any arguments that counsel may have.

So Court will be in recess until 1:30. We will resume at 1:45 with the taking of testimony.

MR. BIERMAN: We have prepared, for the purposes of argument, a translation of these articles. We gave a copy to counsel or we will give a copy to counsel and a copy to the Court around 1:30 or as soon as we have it prepared.

THE COURT: I am not so concerned with the contents except as they relate to what has been put in evidence, which might render them admissible, if they are admissible.

MR. BIERMAN: All right, sir.

THE COURT: I think I appreciate what the Government's position will be, but I want to hear argument before I pass on it.

We will be in recess until 1:30.

(Thereupon at 12:00 o'clock noon,
the hearing was recessed to
reconvene at 1:30 o'clock p.m.)

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AFTERNOON SESSION

(Thereupon the hearing
reconvened at 1:30 o'clock
p.m., pursuant to prior
recess.)

THE COURT: You may proceed.

MR. BIERMAN: Your Honor, in regard to the articles which have been introduced and identified, we would admit that the contents of the articles are as they were described to Morales, that he says that Orlando Bosch told him that he had sent press releases about these articles. In addition, the witness testified that he reprinted releases which were signed "Ernesto" and one of them he identified. We will have some additional testimony--referring to the one he identified as No. 58--

THE COURT: I know the one you are talking about.

MR. BIERMAN: We will have additional testimony relating to the searches of the home of Orlando Bosch and the car, and among that material was the original release signed "Ernesto" in the same fashion as this, with the "E" curled around. We

also have testimony, as the Court will recall, from the gentleman from Western Union identifying Orlando Bosch as bringing in three telegrams using the name "Ernesto, General Delegate of Cuban Power," and we would submit that these are statements of Ernesto and that Orlando Bosch has been identified as Ernesto.

In addition, one of these photographs on here has written on it "Intelligence Service of Cuban Power," and an identical photograph with the same thing written across the top of it was found in the house of Orlando Bosch. And in addition, the photographer from Patria, who also does freelance photography and did the developing, will testify that he developed a number of these photographs and they were given to him and sent to him by someone referred to as "The Doctor," and that he believes that to be Dr. Bosch and had done some work for him.

THE COURT: I would not admit that testimony.

MR. BIERMAN: I beg your pardon?

THE COURT: In my opinion, it is not admissible. I could have called him up and said, "I am the doctor."

MR. BIERMAN: But he knows him.

THE COURT: If he can identify his voice and say that he knows that the person who he was speaking to and that he recognizes the voice, that is one thing. But somebody else just calling up and saying "This is the doctor" or "This is Bosch" doesn't mean a thing in the world without any further identification.

MR. BIERMAN: In regard to the ruling, I would say that the testimony of Garcia on that could be disregarded. It is not particularly strong.

THE COURT: I don't believe that there has been a sufficient foundation to this time.

Now, with respect to the other testimony that the Government has, with the release, perhaps, as you say, that they have been found in his home, or with an identification of the type or some other matter that would tie it in directly to Dr. Bosch, I do not believe that a sufficient foundation has been laid, because my analysis of this testimony at the present time, so far as any connection with these defendants is concerned, is that it could have been anybody in the world and not these defendants. So

unless there is a better connection, I am going to exclude them from the evidence because again, as I say, I could have written this thing and signed "Ernesto" to it. That does not mean that this gentleman over here did it. The mere fact that the name is signed to it; the mere fact that there may have been some releases made, unless it can be connected in a more definite manner, then so far as I am concerned, I am ruling at the present time that there has been no sufficient foundation laid for the introduction of these articles into evidence.

You do not want to make any argument, do you, Mr. Greenspahn?

MR. GREENSPAHN: No, sir. I stand well satisfied with the Court's statement. However, I would have one motion while we are waiting.

The Government has handed me this morning the laboratory reports from the Federal Bureau of Investigation. I presume they are going to call this witness this afternoon. Apparently there is a palm print or four palm prints involved. I would like photographs of them if the Government has them, and I presume that they do have them. I would like to have

them so I can take them from this courtroom this afternoon when I leave.

THE COURT: Can you furnish copies so that he can take them? I assume he wants them for the purpose of having some analyses made. I think he is certainly entitled to that.

MR. BIERMAN: Yes, sir.

THE COURT: So if you will turn them over to counsel so that he can take them with him I would appreciate it.

MR. BIERMAN: I think our laboratory man went to lunch. As soon as he returns, I will give him those.

THE COURT: All right, sir.

MR. BIERMAN: We have an additional instruction which I have given a copy of to counsel.

THE COURT: All right. Give it to Mr. Block over there and give counsel a copy.

Is there anything else at this time?

(No response)

Gentlemen, the jury is supposed to be back at 1:45. That is the reason I am asking. Is there anything else or shall we recess for the time

being?

MR. GREENSPAHN: Yes, sir.

THE COURT: You do not have anything else?

MR. BIERMAN: We do have one additional item. We would offer into evidence the Spanish registration of the vessel COROMOTO. This is under the same type of seal of the United States Ambassador.

THE COURT: I will note an objection on the part of all the defendants and I will admit it into evidence as an official document.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit No. 59.)

THE COURT: We will be in recess, then, until 1:45.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: Is the Government ready to proceed?

MR. BIERMAN: Yes, your Honor.

THE COURT: You may proceed.

THEREUPON--

ANTONIO GARCIA RUIZ,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name,
address and occupation.

THE WITNESS: Antonio Garcia Ruiz.
My occupation is press photographer of the newspaper
Patria.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Garcia, do you do any free-lance
photography work?

A Yes, sir.

Q Mr. Garcia, I am going to show you--

MR. KLEIN: Will the Clerk mark these
as a composite exhibit?

(Thereupon the photographs
referred to were marked as
Government's Composite Exhibit
No. 60 for identification.)

Ruiz - direct

BY MR. KLEIN:

Q I am going to show you what is now marked as Government's Exhibit No. 60 for identification. I will ask you if you have ever seen those before.

A Yes.

Q How did you come to see those, first?

A Somebody go to my home with the negative and ask me if I make--

MR. GREENSPAHN: Objection to it as hearsay, your Honor.

THE COURT: I will sustain the objection.

BY MR. KLEIN:

Q You cannot testify to anything that anybody told you. That is hearsay. The only thing you can testify is what you did and what you saw.

A Well, I have explained the way I--

THE COURT: You told us, I believe, that somebody came to your house and left some negatives there?

THE WITNESS: Yes, sir.

Ruiz - direct

THE COURT: After you got the negatives, what did you do with them?

THE WITNESS: I printing.

THE COURT: You printed them?

THE WITNESS: Yes, sir.

BY MR. KLEIN:

Q Then what did you do with the prints?

A With the prints? I gave it back to the person who give the negative.

THE COURT: Do you know who the person was who gave you the negatives?

THE WITNESS: No, sir.

BY MR. KLEIN:

Q Did you keep any of them for yourself?

A No, sir. Well, I think I have two or three extra copies. So I give the FBI when it was in my home.

Q How about those? How did you get those?

A I can't get the question.

THE COURT: Are those extra copies that you made from the negatives, what you have in your

Ruiz - direct

hand?

THE WITNESS: I leave them right in my home in the--

THE COURT: They are extra copies you made from the negatives?

THE WITNESS: Two or three.

THE COURT: All right.

MR. KLEIN: I would like to offer these into evidence with what I assume will be the same objection, subject to--

THE COURT: Yes, sir. The same ruling will be made.

MR. GREENSPAN: That was almost a valid statement of my position, but I would like to see them before I make an objection.

THE COURT: All right. Yes, sir.

The objection will be sustained subject to a further foundation being laid.

MR. KLEIN: Mr. Clerk, will you please mark these photographs as Government's Composite Exhibit No. 61.

Ruiz - direct

(Thereupon the photographs
referred to were marked as
Government's Composite Exhibit
No. 61 for identification.)

BY MR. KLEIN:

Q I am going to show you now Government's
Exhibit No. 61 for identification. Have you ever
seen those before?

A Yes. I took these pictures.

Q How did you come to take those
pictures?

A Well, I was in my paper, and the
editor told me--

MR. GREENSPAHN: Objection to the
hearsay.

BY MR. KLEIN:

Q Just say what you did. Do not say
anything of what someone else told you.

A How I do it?

Q What did you do?

A When?

Q When you took those pictures.

A When I took them in some house. I don't know--

Q How did you get there?

THE COURT: You were working for the newspaper and you were doing some work for the newspaper?

THE WITNESS: Yes.

THE COURT: Pursuant to instructions from the newspaper, you took those pictures?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

BY MR. KLEIN:

Q Where did you take them?

A I take it in a small room some place. Some people pick me up and we drive.

Q Where did they pick you up?

A They pick me up in the Sears Store on Coral Way.

Q What did they do with you then?

A The other newspaperman, his name is Anguilo, he opened the door and he says, "Come in, Tony." So I get in. Then we drive for a couple of hours, say--

Ruiz - direct

Q Were you told where you were going?

A No. That is hard because they make a lot of, you know, a lot like I see--I don't remember the place where we go.

Q How long did you ride?

A I would say around maybe two hours, maybe an hour and a half. I don't know exactly.

Q Did you have anything on while you were riding? Did they put anything on you?

A No.

Q Were you blindfolded or could you see?

A No, they don't put nothing. They asked me but I don't--my interest is to go to that place and go take a picture. I am supposed to take a picture of Ernesto. I got no interest in putting anything in my eyes or what place I go--just where I go, the place, and I take a picture like my editor wants.

Q When you got to the house you took these pictures?

A Yes.

Q Are those pictures just like what you

Ruiz - direct

saw there?

A Pardon me?

Q Do those pictures look exactly like what you saw at the house?

A Yes.

MR. KLEIN: We will offer these into evidence.

MR. GREENSPAHN: Your Honor, I question the relevancy and the materiality of these photographs.

MR. KLEIN: We will connect them up once again, your Honor.

THE COURT: Well, I think perhaps you had better go ahead and connect them up. In the meantime I am going to sustain the objection to them.
BY MR. KLEIN:

Q When you went there, did you receive anything when you were there?

A What do you mean "receive anything"?

Q Any papers or anything?

A An envelope to the editor with those things on, what you call--

Ruiz - direct

THE COURT: They call that a hood.

THE WITNESS: No, he don't say--somebody was taking pictures only. And they picked up one envelope--I pick up one envelope and give it to my editor Mr. Siffredo.

MR. KLEIN: Nothing further of this witness.

THE COURT: All right. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Garcia, with reference to the first set of photographs that you identified, these are various developments. How many prints of each photograph did you make?

A I make eight, but I think this: I make two or three extra for the reason every photographer in a darkroom sometimes makes three or four copies extra. So those people, those guys asked me for eight and I give eight. So I threw away on my table the other two or three. I don't remember.

Q Now, after you delivered these

Ruiz - direct

photographs to whoever it was that came for them, did you ever see any of these photographs again?

THE COURT: The ones that you gave to the man, did you ever see any of those again?

THE WITNESS: Well, I saw it in the Patria publication.

BY MR. GREENSPAHN:

Q Did you ever see them at any other time?

A No.

Q When you arrived at this place that you told us that you were taken to, what did you see unusual, if anything?

A I can't understand that question.

Q When you went to this house that you were taken to, was there somebody there wearing something over their heads?

A Well, we arrived and we go--I go through like we call a sala, a living room, filled up with newspaper and cameramen, seven or eight there. So when they call me, I go to the very small room--a very small room with one bed, one table with some white

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Ruiz - direct

in there and people with--a person with something over his head.

Q What was over his head?

A It's a black hood, a black hood with two holes in here and one here.

Q Was there at that time anything wrong with your eyesight? Was your eyesight good at that time?

A With what?

Q Your eyesight, your ability to see. Was it all right at that time?

A Well, let me explain this. For taking pictures I need to use them (indicating glasses) because I can't see your face good like this. I need these for looking long distance. So when I take pictures, I use these. So what I am interested in is to focus my camera to take pictures over there.

Q Did you have your glasses on when you were looking at the man wearing the black hood?

A Yes.

Q Could you see him all right?

A Well, I see like everybody.

Ruiz - direct

Q How far away were you sitting from him?

A Well, I'm walking around taking pictures, like all these pictures I show you. Three feet. No more than that.

THE COURT: Were you as far away as the first gentleman sitting there?

THE WITNESS: Five feet, like you are, Judge.

BY MR. GREENSPAHN:

Q Where you and I are?

A It's a very small room; so the newspapermen have to sit down on the floor.

Q How long were you in that room taking pictures?

A I don't stay more than ten minutes or something like that.

Q Mr. Garcia, before all of this, did you know Dr. Orlando Bosch?

A I know him, yes.

Q For how long a period of time have you known him?

Ruiz - direct

A Well, I say more than seven--six or seven or eight years.

Q Did the man in the hood that you referred to at any time say anything?

A He never say anything except the last time he say three words.

Q What did he say?

A He say "Viva Cuba Libre."

Q What does that mean in Spanish?

THE COURT: "Long live Cuba."

A "Long live Cuba."

BY MR. GREENSPAHN:

Q Do you know the voice of Orlando Bosch?

A I think so. Well, let me explain this. He had a very peculiar voice.

Q You are talking about the man in the hood, is that right?

A Yes.

Q Could you identify that voice?

A If he says the same words, yes.

Q Do you know whose voice that was?

Ruiz - direct

A No.

Q Were there any other physical characteristics that you can identify of that man?

A How?

Q Well, I am asking you. You were there.

A (No response)

Q What was in the envelope? What was in the package that you said you took from that place?

A The envelope contained the press release, the same that was published in my paper and every paper in town.

Q What press release was that?

A Patria.

Q What was the press release about?

THE COURT: If you remember. What did the press release talk about?

A Oh, I think that it says he is going to--gee, I don't remember.

BY MR. GREENSPAHN:

Q Do you remember? You do not have to say--

Ruiz - direct

A I'm afraid to say something wrong.

Q Were there any photographs given to the people at that house that night?

A Yes.

Q Along with the press release that night at that house?

A How long I took? No.

Q No. When they gave you the press release which was in this envelope, were there any pictures in there?

A No, no, no. No pictures. Just an envelope.

Q Of your own knowledge, do you know whether or not other persons with the news media-- people with the television, people with the newspapers, people with magazines, whether they received any of these photographs that you took? I do not mean the ones--

A I didn't take that picture you have in your hand.

THE COURT: What he means is the one that you developed from that film.

Ruiz - direct

MR. GREENSPAHN: What I mean, your Honor--

THE COURT: We realize you did not take this. You only had a negative.

THE WITNESS: But you say about this picture.

THE COURT: What he wants to know is whether or not the pictures you made from that negative--do you know whether or not any of these were given to other newspapers or to the radio or TV?

THE WITNESS: I think they did, because I see published a few pictures in the other papers, and I see them in REPLICA, I think, and other Spanish publications here. I don't look for every publication, but I remember that REPLICA. I see one picture in there.

BY MR. GREENSPAHN:

Q Did the man stand up, the man in the hood?

A Yes.

Q He did stand up?

Ruiz - cross

A Yes.

Q Did you see him from the bottom of his shoes to the top of his head standing up?

A Yes, sir.

Q What was his size?

A Well, I'll say--I'm five, five. He's a little shorter than me.

Q Shorter than you, and you are five feet five inches tall?

A That is what I read in the paper--I'm five, five. I'm not sure.

MR. GREENSPAHN: Thank you, Mr. Garcia.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Garcia, do you know what was in the press release? Do you recall?

A The envelope? What they have there?

Q Yes.

A The day we meet Ernesto?

Q Yes.

A Well, they have a piece of paper inside.

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Ruiz - redirect

THE COURT: What was on the paper?

Do you remember what was on the paper?

THE WITNESS: Inside to the envelope?

THE COURT: Yes, sir.

THE WITNESS: It's like a press release, you know.

THE COURT: That is right. What was it about? Did you read it?

THE WITNESS: No, I don't read it. I read it in my paper the next day, because I have to go to my darkroom to develop quickly because--

THE COURT: All you did, you took it and you took the paper and gave it to the editor?

THE WITNESS: Yes, sir.

THE COURT: All right.

MR. KLEIN: Thank you. I have nothing further.

(Witness excused)

THEREUPON--

TOMAS PEDRO REGALADO,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and

Regalado - direct

testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Tomas Pedro Regalado. My occupation is Latin news editor of WCKT, Channel 7 News, Miami.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Regalado, I call your attention to September 19, 1968. Do you recall that date?

A I do.

Q Do you recall seeing a man in a hood later on that evening?

A Yes.

Q Would you state how you happened to come to see that man?

A Well, in the morning I received a phone call from--

MR. GREENSPAHN: If the Court please, this again is going to be hearsay.

THE COURT: I will sustain your objection to it if you object to it.

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Regalado - direct

MR. GREENSPAHN: Yes, sir, I do.

BY MR. KLEIN:

Q Just say what you did.

A Well, I was told to be in some place in Sears parking lot at one time that night, and I was picked up and taken to one house, which I don't know which house it was. And then we came into a small living room and into a hall and then to a small room with only a bed and a guy hooded with a black hood on sitting behind a table with white clothes on and with several envelopes in front of him. So we just took the envelopes. I read it and we left.

Q Did the man stand up?

A I recall he didn't stand up, but I didn't quite see it, because my attention was all on that press release.

Q Was he short, did you notice?

A Yes, he was kind of short.

Q Shorter than Dr. Bosch?

A Yes, very shorter than him.

Q I am going to show you what has now been marked as Government's Exhibit No. 62 for

Regalado - direct

identification. Are you familiar with that?

A Yes. That I received through the mail,
I guess.

Q Will you take a look at it?

A Yes.

Q Through the mail?

A Yes, through the mail, I believe.

I am not sure.

MR. KLEIN: I offer this in evidence.

MR. GREENSPAHN: Your Honor, I don't
know what it is because it is in Spanish. But at
this point it is neither material nor relevant nor
shows any connection whatever with any of these
defendants. And it appears also to be a carbon copy.

THE COURT: I am a little bit tired of
these promises of connecting things up and I am going
to hold you to connecting them up. I am going to
sustain the objection until a proper foundation has
been laid.

MR. KLEIN: All right, sir. Then we
would like to recall this witness at another time.

THE COURT: All right. You may recall

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him.

MR. KLEIN: I have nothing further.

THE COURT: Do you have any cross examination at this time, Mr. Greenspahn?

MR. GREENSPAHN: No, sir.

THE COURT: I will grant the Government leave to recall this witness for further testimony.

MR. GREENSPAHN: And I will reserve my cross until that time, sir.

THE COURT: You may be temporarily excused, sir. You may have to come back if they ask you to.

THE WITNESS: Okay.

(Witness excused)

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THEREUPON--

THOMAS G. BRODIE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

Brodie - direct

THE WITNESS: Thomas G. Brodie,
B-r-o-d-i-e, 4646 Southwest 13th Terrace.
Criminalist 2.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Brodie, how long have you been so
employed?

A I have been with the Public Safety
Department approximately fourteen years.

Q What is the nature of your work there?

A The disposal of explosives and bombs
and the investigations of bombings and explosions and
tool mark identification.

Q Have you had any training in that type
of activity, sir?

A Yes, sir, I have.

Q What is that?

A I have attended several military
explosive ordnance schools. I have studied the
manufacture of explosives at factories. I have gone
to the New York City Bomb Squad for training, and I
have trained under my former boss who formerly did

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this work.

Q How many bombs or how many bombings have you had occasion to examine in your career, approximately?

A I have investigated approximately 125 bombings and disposed of over a thousand different bombs.

Q Have you had, during recent months, occasion to examine the vessel LANCASTRIAN PRINCE?

A Yes, I did.

Q Would you relate when and where that occurred and what you observed?

A This was on September 28, approximately two miles east of Government Cut.

Q What did you observe at that time, sir?

A At this time I observed Officer Zehnder of our department swim under the ship and return and he--

Q Did he have anything with him?

A Yes. He gave me the end of a rope.

Q Then what did you do? Did you pull the rope in?

Brodie - direct

A Yes. After Officer Zehnder returned to the surface, I pulled in the rope.

Q What was on the other end of it?

A There was a large metal can with chains attached.

MR. MORRIS: With the permission of the Court, I would like for the witness to come down.

THE COURT: Would you mind stepping down, please, sir, and taking a look at this object that the Government is going to show you.

BY MR. MORRIS:

Q This is Government's Exhibit No. 45. Have you seen that object before?

A Yes, I have.

Q Where and when have you seen it previously?

A That is the object I just referred to that I pulled in on the other end of the rope.

Q Did you place any markings on that object, sir?

A Yes, I did.

Q Which ones?

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A (Indicating) Right here on the outside is the case number and my initials.

Q In black letters?

A Yes.

Q Did you place any other markings on the object?

A Yes, sir, I did.

Q What else?

A On the six sticks that were inside.

Q I mean just on this object right now, sir.

A On the lid.

Q I see. Was this lid attached to this object, then, when you found it?

A Yes. It was screwed into the ends.

Q In what way does this object differ in appearance now from when you found it, aside from the markings that you put on it?

A There is a tape on there and also yellow writing.

Q While you are down here, I would like for you to examine these exhibits (referring to

Brodie - direct

Exhibit 45-A).. Would you please examine each one of those and determine whether or not you have seen them before? Did you place any markings on them, if you saw them before?

A Yes, I did.

Q Do you find your markings on the ones that you are looking at now?

A Yes, I do.

Q There are more, I believe, over here?

A Over here.

Q You may resume your seat.

Were you able to determine whether all of those sticks had your marking on them?

A Yes.

Q Where did you find these sticks?

A Those were inside that metal can.

Q Were they in approximately the same condition now as when you found them?

A Approximately, except for discoloration and the tape.

Q Do you know from your own personal experience or knowledge what caused discoloration?

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A. No, sir, I don't.

Q I notice this one stick is shorter than the others. Can you state whether or not this is in the same condition as when you found it?

A Yes, it was.

Q Was it that same size when you found it?

A Yes.

MR. MORRIS: Will you mark this for identification, please?

(Thereupon the object referred to was marked as Government's Exhibit No. 64 for identification.)

BY MR. MORRIS:

Q Mr. Brodie, I show you Government's Exhibit No. 64 for identification and ask you if you can identify that, sir.

A No, sir.

Q I show you Government's Exhibit No. 65 for identification and ask you if you can identify that.

Brodie - direct

A Yes, sir.

Q What is that, Mr. Brodie? And when did you see that previously?

A This is a piece of gasket that was inside of the screwed on cover of the can.

Q That was there at the time that you found that?

A Yes, sir.

Q I show you Government's Exhibit No. 66 for identification and ask you if you can identify that.

A Yes.

Q What is that? Did you mark that?

A Yes, I did.

Q Where and when did you see that?

A This was inside of the can, and that was on August 28.

Q The same device that you have identified as coming from the LANCASTRIAN PRINCE?

A Yes.

Q I show you what will be marked Government's Exhibit No. 67 for identification and ask

Brodie - direct

you whether you can identify this.

A Yes, sir.

Q Do you find your marks on there, sir?

A Yes, I do.

Q Where did you find that or when did you last see that?

THE COURT: First, where did you first see it?

BY MR. MORRIS:

Q Where did you first see that?

A This was wadded up. It was inside of the metal can.

Q The same metal can that you had been talking about before?

A Yes.

Q Was it in approximately this condition, sir, at the time that you first observed it?

A It wasn't discolored like that. It was wadded up.

Q Do you know from your own personal knowledge what caused the discoloration in that piece of paper?

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A . No, I don't.

Q How about this one?

A Yes.

Q Was that in there, also?

A Yes, it was.

Q Mr. Brodie, I show you Government's Exhibit No. 48 for identification and ask you whether you can identify that.

A Yes, sir, I can.

Q When is the first time you saw that?
When and where?

A This was inside the can when I opened it.

Q Do you know what that is, sir?

A Yes.

Q What is it?

A It is a relay; a battery-powered relay device.

Q Was it connected in any way with any of the other exhibits that you have identified?

A Yes, sir, it was.

Q Would you explain in what manner?

A This was in between pieces of foam

Brodie - direct
rubber and the wadded up newspaper.

THE COURT: The foam rubber you are talking about, is that Exhibit 66, those two pieces of foam rubber that you looked at?

THE WITNESS: Yes, sir.

THE COURT: All right, sir. Go ahead.

BY MR. MORRIS:

Q Go ahead.

A There was a wire that was part of an exploded blasting cap near the broken stick that I identified earlier.

Q The shorter stick of simulated dynamite? Is that the one that you are referring to?

A Yes, sir.

Q So that this then was connected by wire to a blasting cap, is that your testimony?

A An exploded blasting cap.

Q An exploded blasting cap?

A Yes.

Q Do you know how this thing operates? Do you know how it is supposed to function?

A Yes.

Brodie - direct

Q Would you explain it, please?

MR. GREENSPAHN: If it please the Court, I fully accept Captain Brodie's qualifications as an explosives expert, but I question his qualifications as an electronics expert. There has been no foundation yet laid for any testimony relating to an electrical device.

BY MR. MORRIS:

Q Have you had experience with devices of this type?

A This is the first such device.

MR. MORRIS: I will withdraw it.

THE COURT: All right, sir.

MR. MORRIS: Would you mark this for identification, please?

(Thereupon the object referred to was marked as Government's Exhibit No. 68 for identification.)

BY MR. MORRIS:

Q I show you Government's Exhibit No. 68 for identification and ask you whether you can identify

Brodie - direct

that.

A Yes.

Q When is the first time you saw that?

When and where?

A This was attached to the plastic box.

Q Which end of it was attached to the plastic box, sir?

A These wires here were sticking into the box, and they were covered with tape.

Q Where was the other end, sir?

A The other end, which is the exploded blasting cap, was near the broken simulated stick of dynamite.

MR. MORRIS: Your Honor, at this time I would like to offer in evidence Government's Exhibits 40, 45-A, and all of the other items which were contained inside that casing according to Mr. Brodie's testimony.

MR. GREENSPAHN: Your Honor, the same objection holds as before. There are still markings on the large object and on the smaller objects that have not been identified. And at this point there is

Brodie - direct

no relevancy or materiality, there being nothing shown to connect this object with these defendants.

MR. MORRIS: I think there has been a good deal.

THE COURT: Let's not have any argument, gentlemen. I do not want any argument.

What markings are on that canister which have not been explained or identified? Let me come around and look at it.

MR. GREENSPAHN: There are various markings on the canister in discolored yellow paint and you will see there is one here and there are others that are similar to these.

THE COURT: Gentlemen, I am going to overrule the objection. And I am going to admit the objects in evidence with the exception of those markings which have not been explained by any evidence. And I am going to instruct the jury that insofar as those markings are concerned, that is, the yellow lettering, to disregard it completely unless and until there is some evidence to show what significance, if any, it has.

Brodie - direct

(Thereupon the objects referred
to were received in evidence.)

BY MR. MORRIS:

Q Mr. Brodie, have you had occasion to
examine the vessel CARIBBEAN VENTURE?

A Yes, sir, I did.

Q When and where was that, sir?

A On August 8, August 14, 15, August 21.

Q Where, sir?

A At Pier 3 on August 21 I examined the
area where the ship had been.

MR. MORRIS: Will you mark this for
identification?

(Thereupon the object referred
to was marked as Government's
Exhibit No. 69 for identi-
fication.)

BY MR. MORRIS:

Q I show you what is Government's
Exhibit No. 69 for identification and ask you whether
or not you can identify that.

A Yes, I can.

Brodie - direct

Q . When and where did you first see that?

A On August 14th. This was behind the instrument panel in the engine room of the CARIBBEAN VENTURE.

Q What is it? Do you know what it is?

A No, sir. Only through hearsay.

Q Mr. Brodie, have you had occasion to examine the vessel POLANICA?

A Yes, I did.

Q When and where was that?

A That was at the new port in Miami, Dodge Island. I believe it was on September 21 of this year.

Q What did you observe, sir?

A I observed a vessel docked there, and on the port side was a large dent.

Q From your examination were you able to determine what caused the large dent that you referred to?

A I haven't the faintest idea. It was equivalent to approximately a 57 millimeter projectile.

Q Would you be able to specify from your

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opinion as to what type of projectile from the 57 millimeter? I understand there are several different types.

A A practice round which had been reloaded with high explosive.

MR. MORRIS: You may inquire.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Brodie, your rank is Captain, is it not, sir?

A I was formerly a captain. Now I am a criminalist 2.

Q That is up a step higher?

A No.

Q I do not mean to embarrass you.

A It is equivalent in salary range, approximately.

Q Mr. Brodie, in the course of your official duties, have you had occasion to investigate a bombing occurring in the City of Miami at Specialized Services Corporation?

A Yes, I did.

Brodie - cross

MR. MORRIS: Your Honor, I object to that. I do not believe it is relevant to this case.

THE COURT: Well, I do not know whether it is relevant or not.

This might not be a bad time, ladies and gentlemen, to let us all take a break. We will take a recess for about five minutes while we go into this matter.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: What do you propose to develop by the proposed testimony so far? I will rule that that question and answer are admissible and proper in view of the fact that the witness has testified as to numerous bombings. You can ask him if he investigated specific ones. But beyond that what do you propose to show?

MR. GREENSPAHN: Frankly, I plan to bring out matters and things pertaining to the witness Morales who was before the Court a few days ago. I

Brodie - cross

believe that Mr. Brodie at that time investigated the incident with which Mr. Morales has now been standing charged for some eleven months. Frankly, my whole intent is to go to the credibility of Mr. Morales.

MR. MORRIS: I think that is beyond the scope of the direct, your Honor.

MR. BIERMAN: The Court ruled previously that the extent of the questioning would be whether or not he was under arrest for a felony and any detail of it was not proper examination to go into collaterally with a collateral witness.

THE COURT: That is what I ruled, but my rulings always do not apparently have the ability to maintain rigid limitations.

Now, there has come out in the testimony of Morales the fact that he was connected with a bombing and that he was charged with a bombing. I do not recall whether it came out on some of his direct or some of his cross examination, but certainly that has become apparent and it is part of the record.

MR. BIERMAN: This was brought out in

Brodie - cross

cross examination over our objection, and it was limited to a certain area.

MR. GREENSPAHN: What I propose to the Court is that I will not pursue this line of questioning at this time with Mr. Brodie, and I will conduct my cross examination based solely on the matters of things brought out on direct now, but perhaps it would be wise for me to determine from the Court a ruling so that if I plan to bring Mr. Brodie back as a defense witness to discuss the matter of these Morales bombings, I will know whether his testimony will be permitted or not in that regard.

THE COURT: As I say, it is in the evidence at the present time, at least so far as I am concerned, that Morales was arrested; that he was charged with a bombing, and there was considerable testimony in the transcript of the wire recording about his trial being postponed and continued and all that sort of thing. So that, so far as I am concerned, there is no secret to the jury that, in truth and fact, he has been arrested and charged with a bombing. I let it in although normally, of course, only a

Brodie - cross

conviction and not an arrest would be admissible with respect to going to the credibility of a particular witness.

In this particular case I felt constrained to allow you some latitude, because I think it does go, to some extent, to the credibility of Mr. Morales. And insofar as he is the principal witness on the part of the Government, I propose to allow the defense liberal latitude in cross examining Mr. Morales or in producing impeaching testimony.

I don't know, with the facts before me, as I say, which, so far as I am concerned, are uncontradicted, that anything further will be served. I certainly cannot and I will not permit his guilt or innocence on that charge to be tried in this trial. There is not any doubt, as far as I am concerned, that he had been arrested and he had been charged with a bombing here in Miami. Now, whether you can gain anything more by asking this witness, Mr. Greenspahn, I do not know. So far as I am concerned, as far as any legitimate argument that you may wish to make to the jury on that premise, I will permit you to do it;

Brodie - cross

because the uncontradicted evidence, so far as I am concerned, shows that Morales was arrested and charged with a bombing in this area. And, of course, there is other evidence, as I say, about his trial and it being continued, et cetera. And I further permitted you to go into it because of the possibility of showing a promise or an inducement for him to act or to testify the way he did. As I say, I will permit you to make any legitimate arguments or any possible and proper inferences from these circumstances insofar as argument to the jury is concerned.

Now, with that ruling, I do not know what we can accomplish unless we go into what this man-- For the purpose of this trial, I am not concerned about whether he is guilt or innocent or not, and I do not believe that it would be proper for me to permit that testimony. But I think that you will have, based on what I have already said, all of the latitude that would be desirable to you. I certainly have no intention of preventing you from making an argument based upon what I have said, so far as I am concerned, what the record shows. I do not know what

Brodie - cross

this witness, other than possibly getting into details going to Morales' guilt or innocence, could add to it.

MR. GREENSPAHN: I agree with the Court, your Honor, and I am satisfied with the Court's statement and indication as to final argument on this.

THE COURT: All right, sir. Then we will not go into it.

Frankly, I feel this: I do not feel that it is fair to Morales to go into his guilt or innocence or not, and I think that is probably what this man would do if he has conducted an investigation. He would probably have to tell some of the evidence which he found, certainly, if he went into detail and all. And I just do not think that is a proper thing to do at this time. So I am going to rule, as I have said, that so far as I am concerned, this record shows he was arrested for and charged with a bombing here in the Miami area. There has been considerable conversation in these transcripts about his trial, et cetera, and there was some cross examination on your part as to whether any promise had been made to him, et cetera. And you can take full advantage of that,

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so far as I am concerned, in your argument to the jury.

MR. BIERMAN: Your Honor, with the case in that posture, are we then allowed to prove that the charge has very little substance to it?

THE COURT: I am not going to let you any more prove that the man, in your opinion, is innocent than I am now saying that Mr. Greenspahn can prove he is guilty. I am not going to try Mr. Morales. He is not on trial before me. Any question as to his guilt or innocence, so far as I am concerned, has never been decided by anybody. I did think it was relevant and material because of the fact that it went to his possible interest, and also, as counsel has indicated, it might well go to his credibility or his state of mind.

If, for example, he has participated in a bombing here or has been suspected of being implicated in a bombing here, and he, in effect, gets on the stand and says, "I have changed my mind,"--and the substance of his testimony is, as I recall it, that he repeatedly told Dr. Bosch and other people that

Brodie - cross

he felt the proper place to fight Castro was in Cuba and not in the United States; that he was opposed to doing anything in the United States, and when Dr. Bosch told him he had a ship or he was ready to go to Cuba and he would be the first one to go but he wanted nothing to do with anything in the United States, that is what I consider his testimony to be.

Gentlemen, with that ruling, I am going to rule that I am not going to permit counsel to go into the details of his investigation or other matters.

MR. BIERMAN: For clarification, your Honor, will counsel be permitted to argue that Morales was involved in local bombings?

THE COURT: He cannot argue that he was involved. He can argue certainly that he was arrested and charged with a local bombing and that charge has never been tried and the case has been continued and it has never been brought to trial. That is what the facts in this case hold so far as I am concerned.

Now, as I say, the man's guilt or

Brodie - cross

innocence has never been decided by anybody, but certainly he has been arrested, which is an admitted fact. He has been charged with a bombing, which is an admitted fact. He has not been tried as of yet, which is an uncontradicted fact.

MR. GREENSPAHN: Your Honor, I will resume cross examination on the points covered on direct after our break, but may I have the Court's permission to speak with Mr. Brodie after today's proceedings?

THE COURT: You have my permission to speak with him now.

We will be in recess for another five minutes.

(Thereupon a short recess was had, pursuant to which the following proceedings were had in the presence of the jury:)

THE COURT: All right, Mr. Greenspahn. You may proceed.

BY MR. GREENSPAHN:

Q Mr. Brodie, you identified several

Brodie - cross

sticks of simulated dynamite, and you have commented that the small stick was essentially the same size as when you first found it?

A Yes, sir.

Q Was the wrapping on the several sticks of simulated dynamite the same or was it in any way different than it is now?

A It is discolored now.

Q To what do you attribute that discoloration?

A I don't know.

Q If I understand you correctly, you indicated that this object that has now been introduced in evidence was found at the starboard bilge? Do you recall that?

A Which one is that?

Q The large cylindrical metal tank.

A That may have been Officer Zehnder's testimony.

THE COURT: That is right. He did not testify previously where it was found. The other officer testified where he found it.

Brodie - cross

BY MR. GREENSPAHN:

Q Do you know of your own knowledge where this thing was found?

A I pulled it in.

Q Where were you standing when you pulled it in?

A Amidships directly underneath the stack next to the engine room. I was on the port side.

Q You were on the port side?

A Yes.

Q Is this the vessel--referring to Government's Exhibit No. 50--that the object was pulled up onto?

A It may have been. I can't tell for sure.

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Q All right. What else, if anything, do you recall finding within the cylinder that has now been identified by you other than the six sticks of simulated dynamite, the small apparatus that you saw, and the gasket which you identified?

A Foam rubber and newspaper.

Q Do you know whether the small plastic

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box and the device inside of it were any way activated prior to the time that you first saw it?

A Yes.

Q Was it activated?

A Yes, it was.

Q Do you know, sir, when it was activated?

A No, I do not.

Q Do you know, sir, after making a thorough study of the plastic box and its contents and the cylinder and its contents, whether or not there was any action of any sort involving the box, its contents, the cylinder or its contents prior to the time that it became attached to or otherwise connected to the vessel the LANCASTRIAN PRINCE? In other words, in point of time, can you tell whether or not that object in the box on the LANCASTRIAN PRINCE--whether the small box and the machinery therein were activated?

A I don't know how soon beforehand, no. Is that the question?

Q Yes.

A That it had been activated? No, I

Brodie - cross

don't.

Q As a factual matter and based upon your personal knowledge only, do you know whether or not that had been activated while it was on or attended to the LANCASTRIAN PRINCE or prior to the time that those objects came together with the LANCASTRIAN PRINCE?

A I don't know the time, no, sir. I don't.

Q If I understand you correctly, you have no way of knowing whether that object came onto that vessel in the condition that it now appears or whether its condition changed while attached to a part of that vessel?

A I have an opinion that the blasting cap exploded because of the action of the relay device while the cap was inside of the can, but I can't tell when it did explode.

Q As far as you know, it could well have happened at a time prior to the time that that object in the box came into contact with or became attached to the vessel?

Brodie - cross

A Yes.

Q With regard to Government's Exhibit No. 67, the wadded up newspaper, do you recall the wadded up newspaper that was found in the cylinder?

A Yes.

Q Was it in the same condition when you first observed it as it appears now?

A No. It is discolored now. It is flattened out.

Q These are very fragile. Showing you Government's Exhibit No. 65, when you first observed that, what was the color of it?

A The ordinary color of newspaper--white with black printing on it, and had some ballpoint writing on it.

Q Was there any discoloration to the paper at all other than the natural black newsprint on the white paper?

A Not that I recall.

Q Was the paper dry or wet when you first observed it?

A Dry.

Brodie - cross

Q Do you recall what, if anything, you personally did or caused to be done under your control with regard to this newspaper at the time that you first became aware of its presence? What did you do with it?

A I removed the newspaper from the can the following day at the crime laboratory.

Q What did you do with the newspaper at that point?

A I flattened it out and read the dates on the newspaper and marked it for identification and had it photographed.

Q When you had it photographed, was the newspaper intact or was it in pieces?

A It had been torn. It was in pieces.

Q Was it photographed in pieces or was it photographed with the pieces aligning with each other?

A It was laid out flat on the ground and laid out with some of the pieces adjoining each other.

Q Was the paper brittle as it seems to be now?

Brodie - cross

A No, sir.

Q As you are handling it now?

A No, sir.

Q Did you, while aboard the CARIBBEAN VENTURE, find any objects which you could identify in the area of the engine room or in the area of the blasting or the explosive force?

A Yes, sir.

Q What objects did you find, sir?

A I found thin pieces of metal, steel, that appeared to have come from a bomb container.

Q Did you find any vestige of the container itself that was identifiable as a bomb container?

A From the appearance, in my opinion, that there had been a bomb container that had been very close to the explosion. It was not any part of the ship.

Q With regard to these fragments or these pieces, how would you describe them? Were they large pieces or were they small pieces?

A The pieces ranged in size, I believe,

Brodie - cross

from approximately eight inches down to about a half-inch.

Q You found these in the engine room area of the vessel?

A Yes, sir, along with the piece of brass and spring that was shown earlier.

Q When you went into the engine room, did you make any observations as to whether repairs had been undertaken of the hull in the area that the explosion took place?

A Yes, sir, they had.

Q What was the nature of the repairs that were made?

A A patch had been placed underneath the vessel so that the water could be pumped out.

Q What kind of patch was it? What substance?

A Plywood with bolts through it, hooks.

Q This was attached to the hull?

A Yes.

Q To your knowledge, was any work done that would have caused the fragmentation or the chipping

Brodie - cross

of the hull during the course of the repair work?

A No, sir.

Q Was there any indication as to the extent that you could see as to the extent of the damage that was done in terms of dimension to the hull? What were the dimensions of the area of the damage?

A The explosion had occurred on the outside of the hull and pushed in the area around two strainers on the starboard side of the ship. This area where the strainers are is known--there is a tank where the salt water comes in and goes through pipes. The top of this tank had been ripped open. It was up about three feet above the position where it should have been.

Q Did you have occasion to cause to be found or to be discovered a grille from the forward water intake?

A There were two grilles or strainers. One was recovered under water by a diver from a salvage company, and one strainer was found inside of the ship by the chief engineer.

Brodie - cross

Q At what place was it found, if you know, sir?

A This was approximately four or five feet forward of the damaged area; in between the tank top and the deck of the engine room.

Q Did you see that water strainer?

A Yes, I did.

Q What observation did you make of that?

A That an explosion had occurred on the outside of this strainer and forced it into the ship.

Q What physical markings, if any, did you note on the strainer itself?

A The strainer is bent inward and was ripped approximately nine inches long and approximately an inch wide.

Q Do you recall the color or the hue of the strainer itself?

A A maroon color.

Q Was that the natural metal or was that a paint, as you recall it?

A It was paint, as I recall it.

Q What observations, if any, did you

Brodie - cross

make referable to the paint on that strainer that was found inside the vessel?

A Isn't that what I just testified to, as to the color of that strainer?

Q Did you notice anything unusual about the paint other than the fact, of course, that it was interrupted where the crack or the split in the strainer was?

A I don't recall anything now.

Q Was there anything significant about the other strainer that was found underneath the vessel?

A It was bent, also.

Q Did you make any observations of anything unusual about either the paint or the strainer itself other than the fact that it was bent?

A No, sir, I did not.

Q Mr. Brodie, do I understand you correctly that in one instance one strainer was thrown in a forward or upward direction and the other one was thrown in a backward or downward direction?

A They both appeared to be thrown upward,

Brodie - cross

and one strainer then fell to the bottom of the ocean. That was the forward strainer. The rear strainer was blown inside of the vessel.

Q Do you have an opinion as to the nature of the explosive, whatever it may have been, that caused the damage to the CARIBBEAN VENTURE that you described?

A Yes, I do.

Q What was it, sir?

A The force was the equivalent to approximately 20 pounds of dynamite.

Q Do you have an opinion as to whether any other explosive source other than dynamite would have or could have in this instance produced the type of explosive reaction that was produced?

A Yes. It could have been another type of explosive--C-4--Pentolite--TNT. However, from the push effect that it had it is more likely to have been dynamite.

Q When we talk about a strainer, are we talking about an intake grille? Is that the same thing?

Brodie - cross

A Yes.

Q Did you receive from the crew or the management of the vessel either of the two strainers for the purpose of laboratory examination?

A Yes, I did.

Q Did you have any difficulty in getting that?

A Yes.

Q What was the nature of that difficulty?

A The ship's captain said that, as far as he was concerned, I could have them. As for the forward strainer, Mr. Bird, who was from the salvage company, wanted the forward strainer and he kept it.

Q Did you observe the vessel POLANICA?

A Yes, I did.

Q Did you do anything other than work in and about that vessel in connection with the incident occurring to the POLANICA? In other words, did you do any work on this case anywhere else but aboard the POLANICA?

A Yes, I did.

Q At what place, sir?

Brodie - cross

MR. BIERMAN: Mr. Greenspahn was asking about the grille. So we thought we would bring it down to save some questions.

THE COURT: The next time the Government wants to offer something, I wish they would apprise the Court of it before they start bringing stuff in.

BY MR. GREENSPAHN:

Q Mr. Brodie, is this the water intake that we were talking about? And, if so, we are talking about two of them. Which one is this?

A I don't see my identifying marks.

MR. GREENSPAHN: I am sure he can do it quite well by himself without your help, Mr. Crane.

THE COURT: All right, sir.

A This appears to be my mark. That appears to be the strainer, but with the grease on there it is hard to see the mark.

Q Was this water intake strainer in essentially the same condition when you last saw it and when you placed your mark on it?

A Yes, it is. It may have--I believe it

Brodie - cross

is.

Q Was it as greasy as it is now?

A It was greasy. I don't recall how greasy it was.

Q Which, if you can show us, is the exterior and which is the interior side of the strainer?

A This is the exterior and this is the interior. This is the convex side which is the interior and the concave side is the exterior.

Q What objects, if any, did you find at the immediate side of the POLANICA when you conducted your examination?

A The following day underneath the ship I dragged a magnet and recovered fragments of steel.

Q How large were the fragments and how many were there?

A There were approximately 50 fragments, and they ranged in size from approximately one inch down to about an eighth of an inch.

Q You say the largest was about an inch?

A Yes.

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Brodie - cross

Q What metallic substance were they?

A They were steel on the day of the explosion. Officer Zehnder recovered a piece of aluminum material that he gave to me.

Q Were you able to identify the fragments that you discovered?

A They were--I have an opinion.

Q I want more than an opinion. Were you able to identify them?

A (No response)

Q Let me put the question to you another way. Were they from the hull of the POLANICA?

A No, sir.

Q Do you know for how long a period of time these fragments had been at the bottom of the channel at the place where the POLANICA was berthed?

A No, I do not.

MR. GREENSPAHN: I have no further questions of Mr. Brodie. Thank you.

MR. MORRIS: No redirect, your Honor. I would offer the intake grille into evidence.

MR. GREENSPAHN: I don't think it is

material or relevant, your Honor. I think it is awfully heavy.

THE COURT: Are you offering that thing?

MR. MORRIS: I offer the intake grille as a Government's exhibit, your Honor, but I have no strong feelings on it.

THE COURT: Well, in view of the fact that there has been extensive testimony about it, I will admit it in evidence. I will note an objection for the defendants and will overrule the objection and admit the article in evidence.

(Thereupon the grille referred to was received in evidence as Government's Exhibit No. 70.)

THEREUPON--

JOSEPH C. FRECHETTE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Joseph C. Frechette,

Frechette - direct

F-r-e-c-h-e-t-t-e, Special Agent, FBI, 3801 Biscayne
Boulevard.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Frechette, I call your attention
to October 11, 1968. Were you on duty on that date?

A Yes, sir.

Q I call your attention to the morning
of October 11. Were you on duty then?

A Yes, sir.

Q Where in particular were you?

A I was at that time at 218 Southwest
16th Avenue, Miami, Florida.

Q Whose residence is that?

A Aimee Miranda Cruz.

Q Did you have anything with you at that
time?

A Yes. I had a search warrant.

Q Did you conduct a search at that time?

A Yes.

Q I am going to show you what has been
marked into evidence as Government's Exhibit 24.

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Frechette - direct

Are you familiar with that?

MR. GREENSPAHN: If it please the Court, I am going to object to anything that this witness may have to offer inasmuch as his acts come after the rendition of the indictment and they come after the period of time that is set forth in the indictment as the time of the alleged offense.

THE COURT: I am going to overrule the objection.

MR. GREENSPAHN: Thank you, sir.

BY MR. KLEIN:

Q Are you familiar with that exhibit?

A Yes, sir.

Q What is your familiarity with it?

A I took this out of that residence.

Q At that time on that morning?

A Yes, on that morning.

Q Did you make any markings on it in any way?

A Yes, sir, I did.

Q Where does your mark appear?

A My mark is on the tape; and this is

Frechette - direct
also mine (indicating).

MR. KLEIN: Nothing further at this time.

THE COURT: Is there any cross examination?

MR. GREENSPAHN: No, sir. But I would ask leave of the Court for the right to cross examine later on this witness.

MR. KLEIN: We are planning on excusing him. If you wish to recall him as your own witness, we will have him available.

MR. GREENSPAHN: No questions.

THE COURT: All right, sir. You may step down.

(Witness excused)

THEREUPON--

BERNARDO M. PEREZ,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. KLEIN:

Q Please state your full name.

Perez - direct

A Bernardo M. Perez, Special Agent with the FBI.

Q I call your attention to October 11, 1968. Were you on duty at that time?

A Yes, sir, I was.

Q Where were you on duty on that particular day?

A I was on duty at the residence of Jose Diaz Morejon.

Q What were you doing there?

A I was waiting to be given the signal to arrest him.

Q Did you subsequently arrest him?

A I did, sir.

Q What else did you do at that time?

A At that time we conducted a search incident to an arrest of his apartment.

Q Where did you arrest Mr. Diaz Morejon?

A At the front door of his living room.

Q And you subsequently conducted a search?

A Yes, I did.

Q I am going to show you certain objects and ask you if you are familiar with these.

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Perez - direct

A Yes, sir, I am.

Q What is your familiarity with those objects?

MR. GREENSPAHN: If it please the Court, I move to suppress each and every item that is being presented to this agent.

If the Court will entertain argument in the presence of the jury, that is fine. If not--

THE COURT: No, sir. We will excuse the jury for a few minutes.

Ladies and gentlemen, excuse us for a few minutes.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: You can dictate your motion in the record now.

MR. GREENSPAHN: Yes, sir, your Honor. The defendants would severally move that all exhibits to be identified and offered in evidence for the Government by Mr. Perez be at this time suppressed

Perez - direct

inasmuch as the witness has testified that he presented himself on October 11 of this year, the day after the return of the indictment in this cause, at the residence of the defendant Morejon for the purpose of making an arrest and that he, thereafter, conducted a search incidental to an arrest. It is my understanding of the law that a search cannot be conducted solely for the purpose of discovering evidence to be used against a defendant during the course of trial; that there must be a proper predicate for such a search--either the probable cause that would initiate a search warrant by the Court or the commission of a felony grade offense in the presence of the officer, neither of which were the case in this instance. The sole purpose of Mr. Perez in making his search--and we would recount the items he now brings with him to this courtroom, was to aid in the prosecution of the cause. It is indeed strange to me that the Government would have fought and would have received from the Court on that very same day a search warrant for the apartment of two of the other defendants. But then without the benefit

Perez - direct

of such lawfully issued warrants, it took it upon itself to make a search of the apartment of a third defendant. I would respectfully move to suppress such proffered exhibits.

THE COURT: What does the Government say?

MR. KLEIN: He is mixing up the virility of the search initially with what was found afterwards. It is valid on each of those two bases.

THE COURT: His proposition is this: that the Government had ample time in which to obtain a warrant for this man's arrest; that they were staked out there for the purpose of executing that warrant, they executed that warrant and they arrested him and then, without obtaining a search warrant or anything else, conducted a search under the guise of being the result of the arrest which was an illegal and improper search to begin with. That is his situation, basically. And you cannot, under certain principles of law, incident to an arrest search a dwelling house for the purpose of obtaining evidence in order to sustain that arrest. That is counsel's

Perez - direct

position. Now what? Don't jump off on the proposition it was valid because I am not with you so far. Let's hear you sustain yourself.

MR. KLEIN: That will be the first question, whether or not we have a valid arrest.

THE COURT: No, sir. There is no question about the arrest. The question is whether, as a result of the arrest, you have a right to search this man's home.

MR. KLEIN: Well, if we have a valid arrest, then I submit that a search which is validly incidental to it and it turns up evidence, the mere fact that we have mere evidence is not the basis to vitiate the validity of that search. We have Warden v. Hayden, where the question of the turning up of mere evidence or where the search for mere evidence is valid. And subsequently, also, the holding of that particular case was it was included in the Omnibus Crime Bill, but we would rely on the holding in that case--Warden v. Hayden--where they held that the search for mere evidence was valid.

THE COURT: Well, I think perhaps we

Perez - direct

can maybe take a recess. Do you gentlemen have any objection to letting the jury go out and get a cup of coffee, because this will probably take twenty or twenty-five minutes?

MR. GREENSPAHN: No, sir.

THE COURT: Mr. Marshal, tell the jury we are going to be in recess for probably twenty to thirty minutes, and if they wish, they can go out and get a cup of coffee and come back here, as long as they are back in thirty minutes.

MR. GREENSPAHN: The authority for the proposition that I have asserted, Judge, is U. S. v. Lefkowitz, 285 U. S. 465; and U. S. v. Vega, 250 Fed. Supp. 429; and, of course, the cases that are cited in detail in the Lefkowitz opinion are the basis for our assertions in this regard.

THE COURT: All right, sir. As a preliminary to making the ruling, are there any questions you want to ask this witness with respect to the arrest or the search?

MR. GREENSPAHN: Yes, sir. I think it might be wise for me to do so.

Perez - direct

THE COURT: I think for the purpose of your motion you should be given that opportunity.

(Thereupon the following

interrogation took place out

of the presence of the jury:)

BY MR. GREENSPAHN:

Q Mr. Perez, were you at the Morejon apartment October 11th pursuant to an arrest warrant issued as a result of a grand jury indictment?

A I don't know about that, sir.

MR. KLEIN: Your Honor, he is asking for a legal conclusion.

THE COURT: He was there pursuant to a warrant for that man's arrest.

BY MR. GREENSPAHN:

Q Before you arrived there, sir, did you have any reason to believe with particularity that any of the objects which you ultimately recovered were there in and upon the premises?

A No, I did not.

MR. GREENSPAHN: I don't think I need any more than that.

MR. BIERMAN: Your Honor, it is a bit late for a motion to suppress, but we have testimony to present. And if the position is that they waited to find them at home as a guise and therefore that vitiated the search incident to the arrest, we are prepared to put on testimony showing that there were valid reasons for waiting until this morning hour, although the arrest warrant came out the preceding evening. We did not expect to find anything in particular, but we just searched incident to the arrest and, therefore, we did not get a search warrant. I am somewhat confused by the argument. If it is his argument that we waited to arrest him in his home for the sole purpose of searching it, we are prepared to meet that issue factually.

MR. GREENSPAHN: I have not raised that issue at all.

MR. KLEIN: Then I do not understand the guise issue. All searches are always made incident to an arrest, to secure the place for weapons and whatever else may be there.

THE COURT: Well, I am not so sure that that is necessarily true.

THE WITNESS: May I say one thing?

On this particular morning when we made this arrest, I speak Spanish and, therefore, I was the team leader. We knocked on the door for a few moments and no one answered. Finally a man inside did answer. I identified myself, I told him who I was and asked him if he understood. He said yes, he wants to see something. I showed him my badge through the window, asked him if he could see. He said yes. All during this time I was telling him to open the door and that he was under arrest, and he did not do it for approximately two or three minutes. We did not know whether anybody else was there, and after, when we did go in, we searched the whole apartment and we found these things.

BY MR. GREENSPAHN:

Q Was anybody else in there?

A No.

Q Did he resist your arrest?

A He did not open the door when I told him to, when I properly identified myself. -----

Q Within two or three minutes he did?

A He was standing at the door. I could

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see him through the door, but he would not open it.

THE COURT: Would you mind, for counsel's benefit, restating specifically the basis of your objection?

MR. GREENSPAHN: The objection is predicated upon the proposition that a search for the purpose of acquiring evidence to be used in a prosecution against a defendant is not permissible merely because it is incidental to an arrest. There must have been probable cause; there must have been the issuance of a warrant or the commission of a felony grade offense at the time that the search was undertaken. That is what the Lefkowitz case concerned itself with.

MR. KLEIN: We will rely on the two citations we have given.

THE COURT: All right, gentlemen. I will go take a look at all four of them. We will be in recess for about fifteen to twenty minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: Gentlemen, in ruling on the motion, the Court's ruling is based primarily upon the matters set forth in *Amador Gonzales versus United States*, 319 Fed. 2d 308, where the Fifth Circuit states that a search incident to an arrest must have as one or more of its purposes the discovery (1) the fruits of the crime; (2) the instruments used to commit the crime and (3) weapons or like materials which put an arresting officer in danger or might facilitate escape or (4) contraband, the possession of which is a crime; and by a recent decision of the United States, material which constitutes evidence of a crime or evidence that the person arrested has committed it, citing *Warden v. Hayden*, 387 U. S. 294, and the law set out by the Supreme Court in *Harris v. United States*, 331 U. S. 145, in which the Supreme Court holds that a search incidental to an arrest may, under appropriate circumstances, extend beyond the person of the one arrested to the premises under his immediate control; and that a search incidental to an arrest which was otherwise reasonable is not rendered invalid by the fact that the place searched is a dwelling rather

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than a place of business, nor is it rendered invalid by the fact that it extends beyond the room in which the accused person was arrested.

The Court finds, upon the showing made before it, that the search in question was not an unreasonable one nor one that was more extensive than was reasonably demanded under the circumstances, and the motion to suppress is therefore denied.

All right, gentlemen. Bring in the jury and please proceed.

(Thereupon the following proceedings were had in the presence of the jury:)

BY MR. KLEIN:

Q Mr. Perez, I had asked you just before the recess when and where you saw those particular items. Where did you get them?

A These items were--

THE COURT: They were obtained by him as a result of the search of the premises at which the arrest was made incidental to the arrest of the person for whom the warrant was issued. Let's go.

Perez - direct

BY MR. KLEIN:

Q Would you describe each one?

A This material here appears to be an insulation material which was found in the apartment. And from this material there is a circular section that has been cut.

In this little can on top I placed three non-electrical detonators, blasting caps, and these were found also in the apartment.

This is a piece of paper in which the three non-electrical blasting caps were wrapped, and it was labeled "Detonators."

This is a piece of metal with a wire through it, which we found also in the apartment. And this is a Xeroxed copy of a list of--entitled "Movement, Port of Miami, Daily Dock Report," and it shows the name of the ships and the ports of call, dates in and out of the port.

Q Is there anything on there circled that you can see?

A Yes, there are several.

MR. GREENSPAHN: If it please the

Perez - direct

Court, that is not relevant or material to this proceeding. If the Court would look at the exhibit, the Court I am sure would agree that it does not pertain to any period charged in the indictment, and I would object to it.

THE COURT: I am going to overrule the objection.

Go ahead, sir.

A On this mimeographed sheet of paper, Item No. 35 says "Polancia." That is the name of the ship. And it says "(Polac Comunista)" and then over here under the "Flag" the word "Pole" is also encircled.

Q What is your reason in picking up these objects?

A Because I knew that the ships in and around Miami had been bombed; bombs had been placed on them, and I thought this might have some bearing on that.

Q Was that particular sheet that you are holding in your hand in that condition when you found it?

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Perez - direct

A No, sir, it was not, not exactly.

Q What kind of condition was it in?

A It was completely white, whereas it is discolored now. In the back and front it is discolored.

THE COURT: Why is it discolored, do you know?

THE WITNESS: Yes, sir. I believe it has been treated for fingerprints by our laboratory.

MR. KLEIN: I offer these into evidence at this time. And you may inquire.

Perhaps we can just offer the entire box as a composite exhibit, except that I would like this particular sheet separate. It may be easier that way.

(Thereupon the box referred to was received in evidence as Government's Exhibit No. 71 and the Daily Dock Report was received in evidence as Government's Exhibit No. 71-A.)

THE COURT: I think you had better mark

Perez - direct

each one of them separately. I will note an objection to all of the documents, I will overrule the objections as to the first three constituting detonating caps and the list of ships and what was the other? Not the insulating material. I will sustain the objection as to the metal and as to the insulating material at the present time.

MR. GREENSPAHN: Thank you, sir.

THE COURT: The reason I am sustaining it is that it has not been shown to have had anything to do with this case, with any of the documents or anything else. The fact that they found them in the house does not mean a thing in the world unless it is shown it has some relevancy to this case.

MR. BIERMAN: Your Honor, we have in evidence another item that can be shown or will show--

THE COURT: You had better show it then.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q With reference to Government's Exhibit 71-A, which is the port schedule for the Port

Perez - cross

of Miami, as you have identified it, can you tell us, sir, what the date of the port schedule is?

A Not from memory I cannot.

Q Let me show you the exhibit and let us see if you can refresh your memory.

A The date is May 13, 1968.

Q Do you know of your own knowledge when the POLANICA incident occurred?

A I cannot give you the exact date, sir.

Q It happened several months subsequent to May 13.

MR. KLEIN: I will object to counsel testifying.

THE COURT: All right, gentlemen. Do you object to him testifying now to simplify the thing, or will the Government stipulate it entered the port on a certain date?

MR. KLEIN: The date of entry into the port I don't know, but the incident occurred approximately September 15 or 16.

THE COURT: All right, sir. Now let's go ahead.

Perez - cross

BY MR. GREENSPAHN:

Q Did you note also other markings on the face of this dock report that is Government's Exhibit 71-A?

A Yes.

Q What markings did you note on there?

A I didn't make these markings.

Q Did you observe other markings at the time that you recovered this from Mr. Morejon's house?

A Yes. Item 37, "BETTY K IV." The flag is British. That was noted. And the "MEREGHAN IV," also with the British "Flag" encircled. And the "KIRKDALE," No. 39, has an "X" next to it, under the British Flag. And No. 40, "NICOLAS S. EMBIRICAS" with the word "GRIEGO" circled next to that.

Q What does that mean in Spanish?

A That means Greek. And the Greek "Flag" is encircled.

And No. 41, the FLORIDIAN, is completely written through. It was also a British Flag, which was circled.

Perez - cross

The "KIRK PRIDE," No. 43, has an "X" behind it. And also the British Flag. And the "BETTY K III," No. 44, is completely lined through. That is the British Flag, also.

Q Do you know of your own knowledge who made the encirclings, the editions, the markings on the face of this exhibit?

A No, sir, I do not.

Q With regard to Government's Exhibit 71-C, the small packages, do you know whose writing is appended on those packages?

A The top one is Special Agent Oertel.

Q Was there any writing that was on the objects at the time that you recouped them?

A No, sir.

Q When you opened up the boxes, did you see the objects themselves at the time that you made the recovery of them?

A I don't understand. What time are you talking about?

Q Did you know what was inside this box when you were in Mr. Morejon's house?

Perez - cross

A Those boxes were in Morejon's house.

Q Did you see these objects in question on October 11th?

A Yes.

Q Were you able to identify what they were?

A They were non-electrical detonating caps.

Q Had you ever seen non-electrical detonators before?

A Yes.

Q Where had you seen them, on how many occasions?

A Approximately three or four times near my home town.

Q Where is that?

A In California. It's a mining area.

Q Are these detonating caps or are these detonators unique objects or, in your experience, have you found them to be produced in mass quantities and used in industry?

A I cannot answer that, sir. I don't

Perez - cross

know.

Q With regard to Exhibit 71-B, was the writing on the--is this a piece of cloth or paper?

A No. That was brown paper, I believe, like a grocery store bag. This tape was on here. These are the initials of the agent. And the word "detonadoor" was only written on there at that time.

Q Do you know who put the writing on there at the time?

A No, sir, I do not.

Q Do you know if these detonadoors, as you call them, have been tested by any laboratory or any qualified person to determine whether or not they can be activated?

A Yes. They were exploded by our laboratory, the FBI Laboratory in Washington.

Q With the exception of yourself, how many other people that you know of handled any of these exhibits between the time you took them and the time they were examined at the laboratory?

A Special Agent Oertel and I both handled them.

Perez - cross

Q Did you package them and send them to the laboratory?

A Yes, sir, I did.

MR. GREENSPAHN: That is all I have, sir.

THE COURT: Redirect examination?

REDIRECT EXAMINATION

BY MR. KLEIN:

Q What was your object in taking the insulating material?

A We knew from our investigation that a bomb had been placed in a ship and this bomb had failed to detonate or explode, and material bearing this same trademark had been used as a gasket in making the bomb.

MR. KLEIN: I would like to re-offer this at this time, your Honor.

THE COURT: Do you want to ask him about this?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right. Go ahead.

Perez - recross

RECROSS EXAMINATION

BY MR. GREENSPAHN:

Q You associated this object with a bomb, as you put it, on a ship? Which ship?

A I don't know offhand, sir.

Q Did you see any other piece of material that matched this material prior to the time that you took this material?

A No, sir. I had seen a photograph of it, however.

Q Do you know what this material is?

A It is insulating material, I believe.

Q Do you know what it is manufactured of, what its composition is?

A No, sir, I don't.

MR. GREENSPAHN: Your Honor, I think he is predicating his presumption and conclusion on the fact or on a fact he was not aware of and is jumping to a conclusion, and I do not think it is any more relevant or material now than it was before.

MR. KLEIN: I have no further questions of this witness.

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Perez -recross

THE COURT: I am still going to sustain the objection to it on the basis that while this officer had certain reasonable grounds to seize it at the time that he did and the seizing of it was valid, there still has not been shown any valid connection between the use of this material and the offenses for which these defendants are being charged. He was just acting on information which he considered to be reliable at the time he acted. He had no personal knowledge of it.

(Thereupon the witness was
excused.)

THEREUPON--

MICHAEL E. CRANE,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is Michael E.
Crane, C-r-a-n-e, 3801 Biscayne Boulevard, Miami,
Florida. I am a Special Agent with the Federal Bureau

Crane - direct
of Investigation.

DIRECT EXAMINATION

BY MR. KLEIN:

Q I call your attention to October 11, 1968. Were you on duty at that time?

A Yes, sir, I was.

Q Where was that?

A I was at 297 Northwest 48th Place, Miami, Florida.

Q Did you have anything with you at that time?

A Yes. I had a search warrant.

Q To whom did those premises belong, if you know, or who resided there?

A The premises at the time were occupied by Orlando Bosch Avila and his family.

Q I will show you a document and ask you if you have any familiarity with that.

A Yes, sir, I do recognize this document.

Q Where did you first see that?

A I first saw it on the morning of October 11, 1968, at the aforementioned address.

Crane - direct

Q What is that document?

A It appears to be a packing slip from the Jaidinger Manufacturing Company, Inc., 1921 West Hubbard Street, Chicago, Illinois.

Q What is it for?

A (No response)

Q Never mind. I will withdraw the question. It speaks for itself.

MR. KLEIN: I will offer this into evidence as Government's Exhibit No. 72.

MR. GREENSPAHN: At the time that Mr. Jaidinger was here, I indicated to the Court that this looked like it was a carbon copy. And my objection is that it is a duplication of evidence here. If there is the original and this is the copy, it seems foolish to have both of them in evidence at the same time to clutter up the record which is becoming more cluttered by the moment. The Court allowed the copy in and it has been marked as an exhibit. I would think that it would perhaps be better practice at this point to either substitute the original for the copy rather than to receive both of

Crane - direct

them.

THE COURT: It is being offered for two different purposes. One was for the purpose of showing that it was shipped and the other was for the purpose of showing it was received.

MR. KLEIN: That's correct.

THE COURT: I will overrule the objection and admit the document into evidence.

(Thereupon the document referred to was received in evidence as Government's Exhibit No. 72.)

MR. KLEIN: I have nothing further.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Crane, did you send the document that you have just identified to the laboratory for any type of work-up?

A No, sir.

MR. GREENSPAHN: I have no further questions.

THE COURT: Thank you, sir. You may be excused.

Crane - direct

(Witness excused)

THEREUPON--

MICHAEL P. DOOHER,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Michael P. Doohar,
Special Agent, Federal Bureau of Investigation,
3801 Biscayne Boulevard.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Were you on duty on October 11, 1968?

A Yes, sir.

Q Where?

A 297 Northwest 48th Place.

Q Who resides in those premises, do you
know?

A Dr. Orlando Bosch.

Q What did you do at that time?

A I conducted a search of the residence

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Dooher - direct
pursuant to a search warrant.

Q What did you find? I will allow you to peruse some of these objects, if you will.

A May I use these notes to refresh my memory?

Q You may use any notes of your own to refresh your recollection.

Will you pick out and describe those things that you found?

A First, a small coil of yellow electric wire. Second is a cone-shaped head of metal which appeared to be part of a bomb head.

MR. GREENSPAHN: Objection and move to strike, your Honor.

THE COURT: I will sustain the objection as to what it appeared to be as being an opinion and conclusion of the witness and having no evidentiary value at this time. And I will instruct the jury to disregard that statement.

All right, sir.

A (Continuing) A metal roller that came from the cone-shaped object; a strobe signaling device.

Dooher - direct

BY MR. KLEIN:

Q I have some documents here. Let's see if you are familiar with any of those documents, please.

A Yes, sir. "Declarations of Dr. Orlando Bosch," written in Spanish.

Q What is your familiarity with that?

A I seized it from the residence.

Q What else?

A An article entitled "DEL PODER CUBANO A LA OPINION PUBLICA," another item which I seized.

Q All right.

A A photograph of the MIKAGESAN MARU with the statement "FOTO: SERVICIO INTELIGENCIA PODER CUBANO."

Q Does that bear any markings or initials that are yours?

A Shall I take it out?

Q Yes. Go ahead.

A No, sir.

MR. KLEIN: I will offer these into evidence at this time.

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Dooher - direct

One more item. What other item did you find?

A. A one-quart carton of baralyne absorbent granules.

Q. Talking about this?

A. Yes.

Q. Do any markings of yours appear on this?

A. Yes, my initials and the date up here on the package.

MR. KLEIN: No further questions.

MR. GREENSPAHN: Are you offering all of these?

MR. KLEIN: Yes, sir.

MR. GREENSPAHN: As to the object I hold in my hand, your Honor, it is in Spanish. I don't know what it says. Therefore I can't state whether it is material or irrelevant or not. I don't think anybody else in the courtroom at the moment can.

THE COURT: That is Exhibit 73-A?

MR. GREENSPAHN: Yes, sir. The same holds true again for the object I hold in my hand,

Dooher - direct

Exhibit 73-B. And finally, the photograph: As to relevancy and materiality, it is objected to.

THE COURT: The objections are overruled. The documents and photographs are admitted into evidence.

(Thereupon the exhibits referred to were received in evidence as Government's Exhibits 73-A, 73-B and 73-C.)

THE COURT: Does the Government have translations of these documents?

MR. KLEIN: Your Honor, later on we will have to sort through them and we will either have a translation or we will have an interpreter that will translate all of these.

THE COURT: Well, I am not concerned right now with the presentation of any of it to the jury, but counsel has indicated he does not speak Spanish, he is not familiar with Spanish, and I want him to have an opportunity to know what is in there tonight so he will be advised. The Government can stay with him if he wants to, but I want him to have

Dooher - direct

an opportunity to get with his interpreter and have his interpreter read them to him so he will know precisely what is in there. I want a translation furnished to him at the earliest possible time.

MR. KLEIN: I do not want to go into this in the presence of the jury, but I believe we have given him all these.

THE COURT: You can tell him and show him what you are giving him, but I want him to know what is in it.

BY MR. KLEIN:

Q Mr. Dooher, are any of these other documents or objects familiar to you?

A Yes, sir.

Q Any of the documents?

A This "DECLARACIONES DEL PODER CUBANO."

Q You have your own notes before you.

Is that listed in your notes there?

A Yes, sir, it is.

Q That is listed under what number?

I will offer this in evidence, also.

THE COURT: If counsel makes the same

Dooher - direct

objection, the Court will make the same ruling. The document is admitted in evidence as a Government's exhibit. And I want the same thing to be true with respect to this document.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit 73-D.)

MR. KLEIN: I started to say I was going to make him available for cross examination, but he can't testify as to the contents, either. So it does not make any difference.

MR. GREENSPAHN: Your Honor, in the matter of the confusion, are these things marked for identification?

THE COURT: They have not been admitted in evidence, so there will not be any question about it.

MR. KLEIN: They are not admitted at this time?

THE COURT: No, I have not admitted that in evidence because there has been no sufficient foundation laid. It is nothing but an expression of

2439

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#2439

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

No. 68-420-Cr-WM

8/8

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ORLANDO BOSCH AVILA, et al.,

Defendants.

LAW OFFICES
DANIEL NEAL HELLER
1205 AINSLEY BUILDING
MIAMI, FLA. 33132

Transcript of Proceedings at Trial (concluded)

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LEONARD LAIKEN
OFFICIAL REPORTER U. S. DISTRICT COURT
FEDERAL BUILDING
MIAMI, FLORIDA 33101

Dooher - direct

opinion by that witness.

MR. KLEIN: Could we have it marked for identification?

THE COURT: It will be marked for identification. But until you qualify him as an expert or have somebody come in to testify as to what it can be used for, just on his opinion I am not going to admit it.

(Thereupon the document referred to was marked as Exhibit 73-E for identification.)

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Dooher, with regard to the photograph of the MIKAGESAN MARU, did you find that or any of the documents either in or accompanied by an envelope or a container of any sort?

A Yes, sir.

Q Where are the envelopes or containers in which you found these documents?

A The photo of the MIKAGESAN MARU and the DECLARACIONES DEL PODER CUBANO, the second sheet,

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Dooher - cross

were together. They are separate now, but they were together when I found them.

THE COURT: Were they inside an envelope?

THE WITNESS: Yes, sir.

THE COURT: What kind of envelope was it? Was it a regular letter envelope or a big brown envelope or what?

THE WITNESS: No. It was a brown envelope about so big, sir.

THE COURT: Did it have any writing on the outside of it? I do not want to know whether it was, but I want to know whether or not it was an envelope which has been transmitted through the United States mail.

THE WITNESS: It appeared to be so, yes, sir.

THE COURT: All right, sir. Go ahead.
BY MR. GREENSPAHN:

Q To whom was the envelope addressed?

MR. KLEIN: Is this the envelope, Mr. Dooher?

Dooher - cross .

THE WITNESS: Yes, sir, that's it.

BY MR. GREENSPAHN:

Q To whom is that envelope addressed?

A M.I.R.R., Post Office Box 322,
Riverside Station, Miami, Florida.

Q Do you know, sir, who the M.I.R.R. is
or purports to be?

A No, sir. I am not familiar with that.

16-1

MR. GREENSPAHN: Your Honor, may I
ask that inasmuch as the exhibit has been introduced
in evidence, I recognize it is not my turn to put it
in, but to make it a complete exhibit--

THE COURT: It will be in as part of
the exhibit with those two other documents--the
photograph and the statement that he said was
contained in it. It will be incorporated in Exhibit
No. 73.

(Thereupon the envelope referred
to was received in evidence as
Government's Exhibit No. 73-A & B
(1).)

BY MR. GREENSPAHN:

Q Were any of the other objects in

Dooher - cross

containers, envelopes or any other type of box or carton?

A No, sir. It was as I saw them, as they are now.

Q Were the several items that you have identified and that have been admitted in evidence submitted to the FBI Laboratory in Washington for examination?

A Some were, yes, sir. I am not familiar with all of them.

Q Do you know which ones of those that have been admitted in evidence were, in fact, sent up to the laboratory?

A I am not knowledgeable. I wasn't in charge of sending them to the laboratory. I'm sorry.

MR. GREENSPAHN: That is all I have.

THE COURT: Redirect?

MR. KLEIN: No redirect.

THE COURT: You may step down.

(Witness excused)

THE COURT: Call your next witness, please.

Sweet - direct

THEREUPON--

EDWIN L. SWEET,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Edwin L. Sweet, 3801
Biscayne Boulevard. I am a Special Agent of the
Federal Bureau of Investigation.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Sweet, were you on duty on
October 11, 1968?

A Yes, sir.

Q Where was that?

A At 297 Northwest 48th Place.

Q I am going to show you some items and
documents and ask you if you are familiar with any of
these. Are you familiar with any of these items?

A Yes, sir.

Q What is your familiarity with them?

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Sweet - direct

A Well, in this envelope are cards which are called "Bonds of Cuban Power." They bear the facsimile signature of Ernesto, and they run from \$1, \$2, \$5, \$10 and \$100 in amount. These are captioned at the top, "A Million for Liberation. Cuban Power."

Q What else is there?

A There is a document which is in English and begins with a foreword signed on the third page or bearing the typed name "Dr. Orlando Bosch, Coordinator-M.I.R.R." This document in all is fourteen pages long and ends on the last page with plans for the purchase of rifles and guns. I didn't examine this all the way through. Just general contents.

THE COURT: That's all right, sir. You have told us enough about what is in it.

A (Continuing) The next is a Manila envelope. It contains four sheets of paper. The first is headed "Junta Patriotica de Trabajadores." The other is in blank. It is just a letterhead of the "Alianza M.I.R.R. - Comandos 'L'." The other is the same type of stationery.

Sweet - direct

The third document is what appears to be a rough draft sketch of Cuban Power with the outline starting at the top with the "Direccion - Nacional En Cuba"--the National Directorate in Cuba. Immediately under that--

Q It is an organizational diagram, in your opinion?

A Yes, sir, of Cuban Power.

Q Are you conversant in the Spanish language?

A Yes, sir.

Q Will you take a look at this chart and see if it accurately reflects a translation of that chart?

A Yes, sir, it does.

Q Where did you find these items? Where did you first see them?

A In the back bedroom. That would be the southwest corner just off the hall in the Bosch home.

Q Those Cuban Power stickers that you identified, were there any other in the residence

Sweet - direct
besides those that you have identified?

A Yes, sir. There were two white envelopes containing a large number of them.

Q What do you consider a large number?

A Well, I would say about 500 of the \$5 ones, and there were less of the bigger denominations.

MR. KLEIN: I offer these into evidence at this time.

THE COURT: Together with the translation?

MR. KLEIN: Yes, sir.

MR. GREENSPAHN: Your Honor, counsel has handed me a file containing many instruments including some blank pages, and I submit to the Court that at this stage they are neither material nor relevant.

THE COURT: I am going to overrule the objection and admit the documents into evidence.

MR. KLEIN: I have no further questions.

Sweet - direct

(Thereupon the documents referred to were received in evidence as Government's Composite Exhibit No. 74.)

MR. GREENSPAHN: And the same objection to Exhibit No. 75.

THE COURT: The objection is likewise overruled. The document is admitted into evidence.

(Thereupon the document referred to was received in evidence as Government's Exhibit No. 75.)

THE COURT: And the same thing with respect to Exhibit No. 76.

MR. GREENSPAHN: May I ask the Court's pleasure as far as the publication of this is concerned? Is Exhibit No. 75 going to be read to the jury?

THE COURT: Well, I would think that the Government, to make a good presentation of its case, might read a portion of it. Any document which is admitted into evidence may be taken by the jury into the jury room. But I would not believe that any

Sweet - direct

Government lawyer, with the time I am going to allow him to make his argument, will stand up there and read a fourteen-page document. Because if he does, he has made half of his argument.

MR. GREENSPAHN: All right, sir.

MR. KLEIN: Your witness.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Agent Sweet, without going into the circumstances of it, when did you first become professionally or personally acquainted with Orlando Bosch?

MR. KLEIN: I am going to object.
It is beyond the scope of direct on this particular witness.

MR. GREENSPAHN: I don't think it is.

THE COURT: I am going to overrule the objection. You may answer the question, sir.

A I can't exactly recall. I have seen Dr. Bosch several times. The first time I ever saw him real close was when he was on trial once before.

Sweet - cross

BY MR. GREENSPAHN:

Q And you testified in that case?

A Right.

Q And that was the case he was acquitted in?

A Yes, sir.

Q Now, Mr. Sweet, do you know what the M.I.R.R. is?

A Yes, sir.

Q What is it, sir?

A It is an anti-Castro revolutionary organization.

Q Do you know what position, if any, Dr. Bosch has held and presently does hold with regard to that anti-Castro organization?

A Firsthand, no. But from the documents that he has, he is the coordinator general of the M.I.R.R.

Q Did you find any containers or envelopes for any other materials that you found in his home that you have presented?

A There were a lot of blank envelopes

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Sweet - cross

with--I don't know if I saw any like that or not.

Q Do you still have those envelopes in your possession?

A No, sir.

Q What happened to the other small red-white-blue bonds that we saw? Not bombs but bonds?

A I just left them there.

Q You only took a specimen of each denomination?

A Right.

Q Have you ever seen those bond forms anywhere else?

A No, sir.

Q Do you know of your own knowledge that these are, throughout the Cuban community in the South Florida area, very prevalent?

A It would only be hearsay. I have only heard that. I haven't seen them.

Q Did you cause these documentary exhibits to be examined by the FBI Laboratory for fingerprints or other identifying features?

A No.

MR. GREENSPAHN: That is all I have.

Thank you.

THE COURT: Redirect?

MR. KLEIN: No redirect.

THE COURT: Thank you, sir. You may
be excused.

(Witness excused)

THEREUPON--

JOHN MENTON,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is John Menton.
I am a Special Agent of the Federal Bureau of
Investigation.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Were you on duty on October 11, 1968?

A Yes, sir, I was.

Q Where were you on duty?

A I was on duty--may I refer to my notes?

Menton - direct

THE COURT: Yes, sir.

BY MR. KLEIN:

Q Go right ahead.

A I was on duty at Miami, Florida, in the vicinity of 297 Northwest 48th Place, Miami.

Q What did you have with you at that time?

A I had a search warrant.

Q What was the search warrant for?

A For the search of a green 1961 automobile.

Q What make automobile was that?

A Chevrolet.

Q To whom did that automobile belong?

A Dr. Bosch.

Q Did you conduct a search of that automobile?

A Yes.

Q I am going to show you certain objects and ask you if you are familiar with these. Are you familiar with those objects?

THE COURT: Give him a chance to look

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Menton - direct

at them.

A Yes, I am.

BY MR. KLEIN:

Q Where did you first see them?

A In this Chevrolet automobile.

Q Would you describe each one, please?

You can take that out of that bag. Take all these items out of these plastic bags.

A The first item I can identify by my notes rather than the appearance of the item. It refers to a small fuse-type instrument with two wires coming out of it. It is not in the same condition it was when I picked it up.

Q What condition was it in when you picked it up?

A It was one solid cone with two wires coming out of it.

Q Is this your signature on this slip accompanying it?

A Yes, it is.

Q What else did you find? Will you describe those other items, please?

Menton - direct

A I found a paper bag which has my name on it, with two holes in it.

Q All right, what else?

A I found two pieces of blue cloth, one with a couple of holes in it, and another piece of blue cloth sewed in a hood effect.

Q What else?

A A large piece of foam rubber.

Q What was done with that foam rubber subsequent to your recovery of it, do you know?

A This was sent to the FBI Laboratory in Washington.

MR. KLEIN: We will offer these items into evidence at this time.

MR. GREENSPAHN: Your Honor, as to the paper bag and the two blue pieces of cloth, they are in no way germane to these proceedings and I object to them as being immaterial and irrelevant.

If it is the Government's intention to show that Dr. Bosch had something to do with Ernesto, the testimony is that the hood that he was wearing was black, not blue.

Menton - direct

THE COURT: What about the other?

Do you object to the others?

MR. GREENSPAHN: Yes, sir. To all of them. There is no showing--

THE COURT: You have limited your objection right now to two things. I want to know about the others, also.

MR. GREENSPAHN: The paper bag is nothing more or less than a paper bag.

THE COURT: I will sustain your objection to the paper bag at this time on the basis that no connection has been shown with this case. I will overrule your objection with respect to the hoods.

I will sustain your objection with respect to the fuse-type things, because no sufficient explanation has been made concerning the changed condition. And I will sustain your objection to the material in that thing upon the same ground.

MR. KLEIN: May I ask one further qualifying question on this, your Honor?

THE COURT: All right.

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Menton- direct

BY MR. KLEIN:

Q What was done with this subsequent to your recovery of it (referring to the fuse-type instrument)?

A It was sent to the FBI Laboratory in Washington.

MR. KLEIN: No further questions of this witness at this time.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Do you know what these were used for (referring to the hoods previously referred to)?

A No, I don't.

MR. GREENSPAHN: Thank you. That is all.

THE COURT: You may be excused.

(Witness excused)

THE COURT: Call your next witness.

The other documents or articles will be marked for identification.

Menton - cross

MR. KLEIN: Our next witness is our laboratory witness, and I would like to organize some of these exhibits, if I could have a few moments.

THE COURT: How long is it going to take you?

MR. KLEIN: About five minutes, Judge. And I suspect that this witness is going to be a very lengthy witness.

THE COURT: That is all the more reason why we ought to hear some of it today and finish with him tomorrow.

MR. GREENSPAHN: All right, sir.

THE COURT: Ladies and gentlemen, we will recess for about ten minutes.

Will it seriously inconvenience anybody on the jury to continue until about six o'clock?

(The jury indicates in the negative.)

THE COURT: I propose, then, that we will continue until about six o'clock, at which time we will quit.

We will be in recess for about ten

Menton - cross

minutes. And I would like for you, as soon as you get those things organized, to let me know.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THEREUPON--

CHARLES L. KILLION,
having previously been duly sworn, was recalled as a witness and testified further as follows:

THE CLERK: Please state your full name for the record.

THE WITNESS: Charles L. Killion.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Killion, you are the same gentleman who testified previously?

A Yes.

Q You are still under oath, sir.

A Yes, sir.

Q Previously, sir, you were qualified as an expert in explosives. What other fields do you work in in the laboratory?

Killion - direct

A In firearms examinations and tool markings.

Q What are tool markings or tool marking examinations?

A This is the identification of marks as having been made by a particular tool, a sledge-hammer mark on a safe door or some similar mark; and it also includes the comparison of two materials to determine whether they were at one time joined; that is, two pieces of plastic, metal, wood, to determine whether they were at one time joined into one piece.

Q How long have you been doing this type of work?

A For eight years.

Q Did you have any special training in this?

A Yes, in the laboratory.

Q Have you ever instructed or lectured in this?

A Yes.

Q I show you, sir, what is marked as Government's Exhibit No. 66 in evidence and ask you if

Killion - direct

you have ever seen this before, sir.

A Yes, sir, I have.

Q Where was that that you saw that?

A In the FBI Laboratory in Washington,
D. C.

Q I show you what has been marked
Government's Exhibit 80 for identification and ask
you, sir, if you have ever seen that before.

A Yes, sir, I have.

Q When and where did you see that?

A In Washington, D. C., in the laboratory.
It was received by me in the laboratory.

Q Did you cause a comparison to be made
between Government's Exhibit 66 and Government's
Exhibit No. 80 for identification?

A I did.

Q What was the result of that comparison,
sir?

A I concluded that the two pieces of
plastic foam (Government's Exhibit 66) were cut from
the piece of plastic foam (Government's Exhibit 80).

MR. BIERMAN: Your Honor, we would offer

Killion - direct

Government's Exhibit 80 into evidence at this time.

THE COURT: All right, sir.

MR. GREENSPAHN: Our objection previously made is rendered again as to materiality and relevancy.

THE COURT: The objection is overruled. It is now admitted into evidence.

(Thereupon the plastic foam referred to was received in evidence as Government's Exhibit No. 80.)

BY MR. BIERMAN:

Q I show you a pair of pliers which are part of Government's Exhibit No. 25 in evidence, and a piece of wire which is Government's Exhibit 8-B in evidence and ask you if you have ever seen these before, sir.

A I have seen them before.

Q When and where did you see them?

A I saw them in the FBI Laboratory in Washington, D. C.

Q Did you make any comparison or find

Killion - direct

any relationship between the pliers, sir, and the piece of metal?

A I did.

Q What was that relationship?

A I concluded that one end of the piece of wire was cut by these pliers.

Q How did you do that, sir?

A An examination is conducted by making test cuts of wire with the pliers and comparing those marks with the cut marks on the piece of wire (Government's Exhibit 8-B) and an examination is conducted under a comparison microscope which is, in effect, a duplicate microscope permitting someone to view two objects at the same time and make a direct comparison.

Q I show you, sir, Government's Exhibit 81 for identification and Government's Exhibit 68 in evidence and ask you to open those up and examine them.

THE COURT: All right, sir. He has examined them.

Killion - direct

BY MR. BIERMAN:

Q What relationship is there between the two of them, if you found one?

A Government's Exhibit 81 and Government's Exhibit 68 are each electric blasting caps-- specifically, military M6 blasting caps--manufactured by Hercules, Inc., in Wilmington, Delaware.

Q Are these both of the same size and type and shape, sir?

A Yes.

MR. BIERMAN: Your Honor, we would offer Government's Exhibit No. 81 for identification into evidence.

MR. GREENSPAHN: The same objection.

THE COURT: He has still not satisfactorily explained the change in condition. I am going to sustain the objection until he does.

BY MR. BIERMAN:

Q Would you, sir, describe to us the condition of Government's Exhibit 81 when you received it, if it was different from this.

A It was different from this at the time

Killion - direct

I received it. It was an unfired blasting cap, and I detonated it in the laboratory for safety reasons.

Q Did you take photographs of it prior to detonating it?

A Yes.

Q Do you have those photographs?

A Yes.

Q Could I see them, please?

A (Producing photographs)

MR. BIERMAN: May this be marked as Government's Exhibit 81-A?

(Thereupon the photograph referred to was marked for identification as Government's Exhibit No. 81-A.)

THE COURT: Do the photographs which you have handed counsel accurately depict the condition of the detonator at the time it was received by you, sir?

THE WITNESS: Yes, sir, your Honor.

MR. BIERMAN: Your Honor, I would now offer, with the explanations, Government's Exhibit 81

Killion - direct
and 81-A into evidence.

MR. GREENSPAHN: The same objections
as to materiality and relevancy.

THE COURT: The objection is over-
ruled. They are admitted into evidence.

(Thereupon the items referred
to were received in evidence as
Government's Exhibits Nos. 81 and
81-A.)

BY MR. BIERMAN:

Q I show you, Mr. Killion, Government's
Exhibit 71-C in evidence and ask you to examine these,
please, sir. Have you seen these objects before,
sir?

A Yes, sir, I have.

Q Where was that?

A In the FBI Laboratory.

Q Are they in the same condition they
were at that time?

A No, sir.

Q What difference is there?

A It consisted originally of three

Killion - direct

unfired regular blasting caps. The difference at the present time is the fact that I fired the caps, and the remains of those caps are in these boxes.

Q So each was in functioning order when you received it?

A Yes, sir.

Q Do you have photographs of those prior to the firing?

A Yes, sir.

Q Does this photograph which you have handed me actually depict how they looked at the time of the photographing?

A Yes, sir.

MR. BIERMAN: I would offer those photographs as Exhibit 71-C(1).

THE COURT: I will note the same objection and make the same ruling. They will be admitted into evidence.

(Thereupon the photograph referred to was received in evidence as Government's Exhibit No. 71-C(1).)

Killion - direct

MR. BIERMAN: I have no further questions.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Killion, during the course of your professional activities have you had occasion to examine other evidence or purported pieces of evidence relating to this case?

A I have.

Q Do you have with you today, sir, your complete worksheet, your complete written memorandum of such examinations as you made with regard to the exhibits that you have identified and as to which you have expressed your opinions with regard to today and the other exhibits that you may have examined?

A This is in the form of a laboratory report, a copy of which I do not have with me.

Q Where are those reports, sir?

A With the prosecutor at our office in Miami.

Killion - cross

MR. GREENSPAHN: May I request that the prosecutor make available to me or to this gentleman his reports so he can refresh his memory during the course of his testimony?

MR. BIERMAN: I gave it to you, Mr. Greenspahn. That is the only copy available.

BY MR. GREENSPAHN:

Q With regard to the foam pieces, the two exhibits--No. 66 and 80--you referred to this material as plastic foam, is that right, sir?

A Yes.

Q What was the means by which you compared Exhibit 66 with Exhibit 80?

A By visual examination and by comparing it under a microscope.

Q What standards of comparison or what criterion of comparison did you establish with regard to the two exhibits?

A Based upon the cut edges of the material, plus the marks that appear from the material being cut, the marks that appear on the cut edge.

Q Did you compare, then, the two small

Killion - cross

pieces of Exhibit No. 66 with the large piece (Exhibit 80)?

A Yes, sir.

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Q Had you, prior to the time that you were first confronted with these exhibits, had experience in the comparison of foam materials?

A Yes.

Q Do you know the various grades of foam materials?

A No, sir.

Q Do you know whether or not the foam material in Exhibit 80 is a standard and usual grade of plastic foam material?

A No, sir.

Q Do you know in what size sheets or lots the materials evidence by Exhibit 80 are sold or manufactured?

A This is one-inch, and there would be other thicknesses, but I don't know the various thicknesses.

Q Do you know what the uses of this plastic foam material are principally in industry?

Killion - cross

A This particular foam? I do not know.

Q Was the large piece (Exhibit 80) in the very same condition that it now presents itself in, or was it in a different condition when you examined it?

A At the time I examined it, it was in this condition.

Q With one piece almost coming out but still attached, is that correct?

A Yes.

Q Now, sir, will you show me the criterion or the comparison that you had indicated previously?

A The comparison is based upon the characteristics of the cut line that can be seen on this side and on the opposite side; and in addition, the fact that on the cut edges there are materials, for instance, on one side that match into the cut area of the opposite cut edge.

Q When you first received Exhibit 80 with the markings that are on it--and I don't mean the penned in or blue markings on the face of it--but

Killion - cross

the rust stains, the dirt stains and the other stains that are on there, were they on the exhibit itself at that time?

A Yes.

Q Was there any continuity between the rust stains and the other stains that are observed on Exhibit 80 and the exhibits which are marked as Exhibit No. 66?

A There is not.

Q There are, as you have aligned them, interruptions of the various apparent rust stains, is that right?

A That's correct.

Q Do your records refresh your memory as to when it was, by date, that you made the comparison of those foam items?

A Yes, sir.

Q When was that, sir?

A On October 17, 1968.

Q Do you know by whom the plastic foam is manufactured, sir?

A No, I do not.

Killion - cross

Q Now, with regard to the wire that you referred to and the pliers--and I don't have the exhibit numbers--but I am sure you will recall what you testified to?

A Yes.

Q What was your criterion technically for determining whether or not there was any relationship between the instrument and the wire? How did you go about making a determination?

A The identification of a tool mark is based upon the fact that, in the manufacture and use of a tool, your irregularities will appear on the tool, whether it is a cutting tool or a hammer or whatever tool it might be. In this instance, it is a fact that the cutting edge of the pair of pliers is unique to that particular tool based upon the irregularities on the cutting edge. So if the pliers are used to cut, as in this instance a piece of wire, it will produce marks that are peculiar to that particular tool. So on a questioned piece of wire--that is, questioned as to whether it was cut by a particular tool--that wire is compared with a wire or

Killion - cross

other material that I cut as a test cut with the pliers.

Q Do you know by whom the pliers were manufactured?

A I don't recall.

Q Can you tell us whether this is an expensive or an inexpensive pair of pliers?

A Relatively inexpensive.

Q Based upon your training and experience, do you have knowledge as to whether dies are used in the manufacture of tools such as this set of pliers?

A Dies?

Q Yes, sir.

A I would not expect dies to be used on this particular set of pliers.

Q What is your considered professional opinion as to the manner or mechanism of the manufacture of such an instrument?

A That they would be cast and machined.

Q Would they be produced in mass quantities based upon the casting or the procedures

Killion - cross

that you are envisioning when you give us that opinion?

A Yes, sir.

Q Would there not be, then, common characteristics between each of the individual tools that were the product of such a process?

A There will be common and there will be uncommon.

Q Based upon your training and experience do you have an opinion as to whether this set of pliers is a unique set of pliers? That is, is it one of a kind or do you know whether there are others in quantity possessing the same characteristics as this instrument?

A In my opinion, there are no other pliers that have a cutting edge the same as the cutting edge on this pair of pliers.

Q Show me what you mean when you talk about a cutting edge.

A The cutting edge being the portion at the back end of the jaw where the wire may be cut. So the cutting edge is the inner portion of that jaw

Killion - cross

on this side and the inner portion of this jaw on the inside.

Q Going into your knowledge of the casting procedure employed in manufacturing an instrument such as this, is not there a common mold or cast into which the metallic substance is shaped and produced into the ultimate and final form?

A Yes, sir.

Q Wouldn't the dimensions necessary for the preparation of such an instrument be the same on all such instruments that are cast in the same or general lot as the instrument that I hold before me?

A The general dimensions, yes.

Q Would that not apply to all of the surfaces, including the cutting edges as you referred to them, of the instrument?

A They will vary from one to the other.

Q Showing you Government's Exhibit 8B which you indicate was the object that can be matched with those cutting edges, open it up, if you will, please.

A (Witness complies) The end to which I

Killion - cross

referred is the end to which I am pointing.

Q Now, that would be the end on the same side that the label is affixed to?

A That's correct.

Q Did you check out the other side?

A I did.

Q What finding did you find?

A It was not possible to determine whether the opposite end was cut by that pair of pliers, nor was there enough characteristic on the cut end to identify it with any particular tool.

Q What characteristics were different on the upper end from those on the lower end?

A From the cut end there are, under the microscope, irregularities that are seen as a result of the cutting of the end of the wire. It is a comparison of those irregularities, those marks produced by the tool.

On the opposite end there was not enough of these irregularities, which is not uncommon, to be able to arrive at any conclusion.

Q Would you anticipate that both ends,

Killion - cross

if they were cut by the same pair of pliers, would manifest the same characteristics?

A The same general characteristic, yes, sir.

Q Sufficient characteristics to enable an identification as to the instrument that was used to cut it?

A Not necessarily. It depends upon an examination of each end.

Q Do you have your laboratory report relative to this exhibit?

A No, sir. It is in a different laboratory report that I do not have. I beg your pardon. I believe I do have that laboratory report.

Q What is the date of that report, sir?

A Yes, sir, I do have it. It's October 14, 1968.

Q How would you describe the piece of coat hanger that we have been talking about, in terms of its newness as opposed to its oldness?

A What do you mean?

Q Was it a new piece of hanger or was it

Killion - cross

an old piece of hanger?

A It is not possible to tell whether it was new or old because of the fact it had not been corroded to any extent.

Q Let me take a look at your report, please.

A (Handing document to Mr. Greenspahn)

Q Mr. Killion, I would call your attention to your report of October 14, 1968, the last page thereof, the next to the last paragraph thereon. Is that piece of wire that we are talking about identified by you, for the purposes of your laboratory study, as Q14?

A The piece of wire is referred to as Q14? No. The laboratory is not the same piece of wire to which I have been testifying.

Q Do you know what Q14 is in relationship to any evidence that has been presented in this case?

A Only that it was a piece of wire that was submitted to me. Its specific origin I do not know.

Killion - cross

Q A piece of coat hanger wire?

A Yes, sir.

Q That was badly corroded and you made no definitive test as to the relationship between that and any tools of any sort?

A That's correct.

Q What other items did you examine on October 14, 1968?

A Are you referring in connection with the laboratory report of October 14?

Q Yes, sir. That would fully reflect the items that were examined by you, wouldn't it?

A A portion of the items, yes, sir.

Q Now, with regard to the item identified as K1 by you, was that a 57 millimeter recoilless rifle?

A Yes, sir.

Q Did you in any way alter the condition of that recoilless rifle while it was in your possession?

A I did.

Q In what respect, sir?

Killion - cross

A At the time I received it, there was a tape around the muzzle along with the piece of wire that I have testified to. I removed that so that the examination could be conducted.

In attempting to open the weapon, a knob broke off. And I, in general, cleaned the gun to determine that it would be--that it was in operating condition.

Q Is it a fair assumption to say it was not in the same condition as when you received it?

A It was in operating condition after I cleaned it up. It was dirty to some extent.

Q No. The question I asked you is, when you received it, was it in operating condition?

A That is a matter of the definition of "operating condition." It required no additional parts or other mechanism to fire. To that extent it was in operating condition. To the extent of being dirty and some corrosion, it was not in firing condition.

Q Did you have an opportunity to examine the metal fragments?

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Killion - cross

A Yes, sir.

Q Did you make any significant finding with regard to those metal fragments?

A I did.

Q What findings did you make, sir?

A I found that some of the metal fragments were like those from the projectile of a 57 millimeter recoilless rifle. That is the bullet portion.

Q Did you have an opportunity to examine a handkerchief that has been smeared against the hull of the POLANICA, the hull of the vessel that had allegedly been shelled?

A I did not do that examination, no, sir.

Q With regard to Page 3 of your report of October 14, indication is made of the examination of a handkerchief, paint chips and debris. Do you recall that?

A I recall that portion of the report, yes, sir.

Q What findings, if any, did you make in that regard?

Killion - cross

A I did not do the examination relative to that. That was conducted by another examiner.

Q I see. What other items did you examine, sir, in the course of your examination?

A Shall I list them?

Q Yes, sir.

A Based upon just the ones in the report of October 14?

Q No, sir. In the course of your official duties in regard to the evidence in this case.

MR. BIERMAN: Your Honor, I haven't objected to any of this, but we have offered the man on direct for certain evidence, and unless there is some Brady material which has not been shown, it seems to me he is going far afield of the direct examination.

MR. GREENSPAHN: Your Honor, I would request of the Court at this time that this agent be required to remain so I can call him as part of my case. I'll do it that way.

MR. BIERMAN: I just couldn't let him

Killion - cross

continue. In any event, he has got another trial to go to.

THE COURT: Well, we have got one trial right here, which is the most important trial he is in right now.

MR. BIERMAN: I agree.

MR. GREENSPAHN: Frankly, I would prefer to have him as my witness.

THE COURT: I am sorry, sir, but I will not be able to excuse you. I will have to ask you to remain subject to call. I hope we can get to you relatively soon.

MR. GREENSPAHN: All right. Let me finish with you on this cross examination, if I may.

BY MR. GREENSPAHN:

Q You identified Exhibits 81 and 68 as electrical military M6 blasting caps manufactured in Wilmington, Delaware, by the Hercules Company. Had you seen such blasting caps before, sir?

A Yes, sir.

Q Would you estimate, if you can, the quantity in which such blasting caps are produced

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Killion - cross

either on an annual or semi-annual basis?

A Many caps are produced, perhaps thousands. I don't know.

Q Do such blasting caps have commercial and industrial uses?

A They have military application.

Q Do they have commercial and industrial uses?

A None that I know of.

MR. GREENSPAHN: That is all I have at this time, your Honor.

I will ask that the witness be instructed to remain subject to call.

THE COURT: The witness will remain subject to call.

Redirect examination?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Killion, did you make any photographs of the sponge that was cut?

A I did.

Q Do you have those?

Killion - redirect

A (Producing photographs)

MR. BIERMAN: Will you mark this as
Government's Exhibit 82?

(Thereupon the photograph
referred to was marked as
Government's Exhibit No. 82
for identification.)

BY MM. BIERMAN:

Q Does this accurately depict the two
pieces of sponge?

A That depicts one piece of sponge
(Government's Exhibit 66) and the piece of sponge
(Government Exhibit 80).

MR. BIERMAN: With the Court's
permission, may he step down and explain this
photograph to the jury, your Honor?

THE COURT: All right, sir.

THE WITNESS: Depicted in the photo-
graph is the cut edge of the two pieces of foam.
The bottom half is the largest piece of foam, and the
upper half is the smaller piece of foam. In cutting
through the foam, the marks appear as the result of

Killion - redirect

a cutting action, and there will be, in effect, mounds and valleys on one piece that will correspond to the mounds and valleys of the edge of the other piece.

BY MR. BIERMAN:

Q Did you examine this sponge rubber under a microscope?

A Yes.

Q Was your conclusion affected by that examination?

A Yes.

Q Did you find them to be identical in cut and texture?

A Yes.

Q And, sir, referring to the rust markings on the complete piece of foam, would you have any way of knowing whether that was on there prior to or after the time that this piece (Exhibit No. 66) came from it?

A It would appear that the rust mark on the larger piece of foam occurred after the small pieces were cut.

Killion - redirect

Q Did the discovery of the differences in that rust mark in any way affect your opinion?

A No, sir.

Q In regard to the wire, did you make photographic microscopic enlargements of the pliers and the wire?

A Yes.

Q Do you have those?

A Yes.

Q Would you give me those, please, sir?

A (Producing photographs)

THE COURT: What magnification is that, Mr. Killion?

THE WITNESS: Your Honor, they are different magnifications. Referring to these photographs, the magnification is 15, approximately, and the magnification of the third photograph is approximately twenty-six. That is the magnification and enlargement total.

MR. BIERMAN: Mr. Blerk, will you mark this as composite Exhibit No. 83?

Killion - redirect

(Thereupon the photographs
referred to were marked as
Government's Exhibit No. 83
for identification.)

MR. BIERMAN: I would offer Exhibit
No. 82 into evidence, your Honor.

MR. GREENSPAHN: No objection.

THE COURT: It will be admitted in
evidence.

(Thereupon the photographs
referred to were received in
evidence as Government's
Exhibit No. 82.)

BY MR. BIERMAN:

Q Do these photographs accurately depict
what you observed under the microscope?

A Yes, sir.

Q Can you explain to the jury the
comparisons on those tool marks?

Never mind. I will withdraw that
question.

Have you done an examination of these?

Killion - redirect

A Yes.

Q With the microscope as well as with the naked eye?

A With the microscope.

Q Solely with the microscope?

A Yes.

Q And you found them to be identical, is that correct?

A That's correct.

Q Now, sir, Mr. Greenspahn asked you about pliers being of the same mold and kind. Is that as to the naked eye or as to microscope?

A As to the microscope.

Q In other words, you saw that some of them were made from the same mold?

A Yes, that's correct, but microscopic differences will still occur.

Q Are these microscopic differences as to which you have testified the basis for your comparison?

A Yes.

MR. BIERMAN: I have nothing further.

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THE COURT: All right, sir. Thank you very much. I am sorry, but you will have to remain subject to call.

THE WITNESS: Very good.

MR. BIERMAN: I would offer those photographs into evidence.

THE COURT: All right, sir. Is there any objection?

MR. GREENSPAHN: I don't know what I am looking at.

MR. BIERMAN: Exhibit No. 83.

THE COURT: All right, sir. I will note an objection, anyhow, will overrule the objection and admit them into evidence.

(Thereupon the photographs referred to were received in evidence as Government's Exhibit No. 83.)

THEREUPON--

BRUCE E. CLINKSCALES,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

Clinksscales - direct

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Bruce E. Clinksscales, Special Agent for the FBI here in Miami.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Clinksscales, did you have occasion to see some palm and fingerprints in regard to this case, sir?

A Yes, sir, I did.

Q Do you have those with you?

A I have some of them, yes, sir.

Q Showing you, sir, what is marked as Government's Exhibit No. 84 for identification and what will be marked Government's Exhibit No. 85 for identification, I will ask you when and where you had occasion to see these, sir.

A I took both of these sets of fingerprints and palm prints on October 11, 1968, at the Miami FBI office.

Q Referring to Government's Exhibit No. 84, from whose hands did you take those, sir?

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Clinkscates - direct

A These are the fingerprints and palm prints of Jorge Gutierrez Ulla.

Q Do you see that individual in the courtroom today?

A Yes, sir.

Q Where is he, if you will point him out, please? Just step down and point him out.

A He is the gentleman in the brown coat, as I recall.

MR. BIERMAN: Let the record reflect that the witness has identified the defendant Jorge Gutierrez Ulla.

BY MR. BIERMAN:

Q What other prints did you take, referring to Government's Exhibit No. 85?

A These are the fingerprints and palm prints, also taken on October 11, 1968, of Marcos Rodriguez Ramos.

Q Do you see that individual in the courtroom today?

A Yes, sir.

Q Will you point him out, please?

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Clinkscates - direct

A He is the gentleman on the front end,
on this end.

MR. BIERMAN: Will the record reflect
that the witness has identified the defendant Marcos
Rodriguez.

BY MR. BIERMAN:

Q What did you do with these after you
took them, sir?

A Those were forwarded to the FBI
Identification Division in Washington, D. C.

MR. BIERMAN: I have no further
questions.

THE COURT: All right, sir. Is there
any cross examination?

MR. GREENSPAHN: Yes, sir.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did you, in the course of your
official duties, have occasion to send any other
fingerprints or palm prints for analysis to the FBI
Laboratory?

A Yes, sir. On the same date the

Clinkscale - cross
fingerprints and palm prints were taken of the other
defendants present here.

Q Those were sent to Washington?

A Yes, sir.

Q In the official course of your
professional activities, did you receive back any
records or references or analyses reports relative
to the other defendants as well as these two?

A I personally did not, sir.

Q To your knowledge, did your department
in Miami receive such reports?

A I'm sure they did.

MR. GREENSPAHN: Thank you, sir. I
have nothing else.

THE COURT: Is there any redirect?

MR. BIERMAN: No redirect.

THE COURT: Thank you, sir. You may
be excused.

(Witness excused)

Bailey - direct

THEREUPON--

DAN A. BAILEY,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Dan A. Bailey, finger-
print examiner, Washington, D. C.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q By whom are you employed, Mr. Bailey?

A Federal Bureau of Investigation.

Q How long have you been so employed?

A Twenty-eight years.

Q How many years' experience do you have
in fingerprint work, sir?

A That is all. Twenty-eight years.

Q Have you ever had occasion to give
instructions or lecture in fingerprint work?

A Yes, to police schools, new agents,
different law enforcement agencies.

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Bailey - direct

Q What is a latent palm print, sir?

A That is a result of a person having touched an object, leaving on that object either perspiration or foreign substances that are on the hand.

Q What is an inked palm print or fingerprint?

A That is where you put the ink on the palm itself and then place the hand on a piece of paper, thereby leaving the impression of the palm on that paper.

Q How are latent palm prints compared with the inked palm prints?

A By the actual ridge detail that appears on the palm prints.

Q In your experience, sir, are any two palm prints of different individuals alike?

A No, sir.

Q In this field is the writing in agreement with you, sir?

A Yes, sir.

MR. GREENSPAHN: Objection. It calls

Bailey - direct

for a conclusion.

THE COURT: I will sustain the objection to the question.

BY MR. BIERMAN:

Q I show you, sir, Government's Exhibits 84 and 85 and ask you if you have ever seen these before.

A Yes, sir, I have.

Q When and where did you see them, sir?

A I brought those from Washington and turned them over to the agent this morning.

Q Where did you receive them from?

A From the Miami office.

Q I show you, sir, Government's Exhibit No. 67 in evidence and ask you when and where you have ever seen that before, if you have.

A Yes, sir. In Washington, D. C.

Q What condition was it in when you received it?

A Well, it was just a regular piece of newspaper, and then I treated it with Ninhydrin and silver nitrate. That is the reason for the difference

Bailey - direct

in color.

Q As a result of this treatment by Ninhydrin, did you raise any latent prints on this?

A I did, sir.

Q How many did you raise?

A Four palm prints and the lower joint of a finger.

Q Were you able to make any identification of the palm prints?

A Yes, sir.

Q What identifications were you able to make, sir?

A I identified one palm print as the palm print of Jorge Gutierrez and three palm prints as that of Marcos Rodriguez Ramos.

Q That is, sir, you compared them with these cards which are Government's Exhibits 84 and 85?

A Yes, sir.

Q You have no personal knowledge as to whose cards these are?

A No, sir.

17-1

Bailey - direct

Q Did you make any enlargements or charts reflecting this examination?

A I did, sir.

Q Do you have those with you?

A Yes, sir.

Q While you are looking for those, on which newspaper did you find these, sir?

A The New Orleans States-Item.

Q Did you find any latent prints on the newspaper The Miami Herald?

A No, sir, I did not.

Q Is it unusual, sir, not to find any prints or any identifiable prints on objects that are sent to you for identification?

A It happens quite often.

Q Are these charts, sir, ones which you personally prepared?

A Yes, sir.

MR. BIERMAN: Mr. Clerk, will you mark this for identification, please?

(Thereupon the newspaper referred to was marked as Government's Exhibit No. 86 for identification.)

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Bailey - direct

THE COURT: In the identification of palm prints, do you have your points of similarity just as you do in fingerprints?

THE WITNESS: Yes, sir, you do.

THE COURT: How many points, in your opinion, are necessary for you to obtain in order to make an identification?

THE WITNESS: There is no set number.

THE COURT: No set number?

THE WITNESS: I have testified in Federal Court on seven before.

THE COURT: In your opinion, seven is sufficient for you to form an identification?

THE WITNESS: Yes, sir.

THE COURT: For similarity?

THE WITNESS: Yes, sir.

BY MR. BIERMAN:

Q I show you, sir, what has been marked as Government's Exhibit No. 86 for identification and ask you if that is an accurate representation and blow-up of the latent prints and inked prints.

A Yes, it is.

Bailey - direct

Q Whose print is that, sir?

A That is the print of Jorge Gutierrez Ulla.

MR. BIERMAN: I would offer that into evidence, your Honor.

MR. GREENSPAHN: Your Honor, until the photographs and the fine points of similarity are established, I feel that it is not a proper exhibit.

THE COURT: All right, sir. Go ahead and ask him about it.

BY MR. BIERMAN:

Q Would you, sir, explain to the Court and jury and demonstrate with this chart the points of similarity?

A Yes, sir. The black lines on here represent the ridges or the raised portions of the palm of the hands. The white portions are the places in between the ridges of the hand. The numbers and lettering I put on there myself just merely to help me explain the different points of identity.

Starting on the inked print, this is the way I make my identification. In the center toward

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Bailey - direct

the top of the print there are two ridges coming together, and I have marked that as point No. 1. Seven ridges directly to the right there are two ridges coming together, and I marked that as point No. 2. Directly below that three ridges and two other ridges coming together, and I have marked that as point No. 3. Over to the left and straight down I find two more ridges coming together, and I marked that as point No. 4. Keeping those four points in mind, I then looked at the latent print to see whether or not I could find the same points. We find the same two ridges coming up here and joining. I marked that as point No. 1. Seven ridges directly to the right, two ridges coming together. I marked that as point No. 2. Four ridges below that, two ridges coming together. I marked that as point No. 3. Over to the left and down we find two ridges coming together. - I marked that as point No. 4.

Keeping those points in mind, I then looked at the other points 6 through 13, and I found that they were in the same position as to each other. Therefore I made my opinion that they were made by one

LEONARD LAIKEN

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Bailey - direct
and the same person.

Q Do these points have names?

A Well, they are either end ridges--

THE COURT: Let's not confuse this
with a lot of technical testimony unless it is
necessary.

Do you re-offer it?

MR. BIERMAN: I re-offer Government's
Exhibit No. 86.

MR. GREENSPAHN: The same objection.

THE COURT: It shall be admitted in
evidence.

(Thereupon the item referred to
was received in evidence as
Government's Exhibit No. 86.)

MR. BIERMAN: Will you mark this as
Exhibit No. 87?

(Thereupon the photograph
referred to was marked as
Government's Exhibit No. 87
for identification.)

Bailey - direct

BY MR. BIERMAN:

Q Did you make a photo enlargement of the other print?

A Yes, sir, I did.

Q Whose would that be?

A That is marked as those of Marcos Ramos.

THE COURT: All right. Would you mind stepping down and doing the same thing you did with that one?

A On the right is the inked print; on the left is the latent print. Starting up in the right-hand corner we find a ridge ending at a point that I have marked as No. 1. Going directly to the left there is a short ending ridge, and I marked each end of that as point No. 2 and point No. 3. Directly between those two ridges and straight down we find an ending ridge, and I have marked that as point No. 4. To the right of that, the first ridge, there is another ending ridge, and I marked that as point No. 5.

Then keeping those in mind, I looked at

Bailey - direct

the latent impressions and find the same points as No. 1. Then going over we find a short ending ridge or ridges which I have marked as points Nos. 2 and 3. Straight down below and between those two ridges there is an ending ridge and I marked that as point No. 4. And the first ridge up and to the right is an ending ridge and I marked that as point No. 5. I then looked at the rest of the point and found 12 points on there that were in the same position as to each other, and I formed my opinion that they were made by one and the same person.

MR. BIERMAN: I offer Government's Exhibit No. 87 into evidence.

THE COURT: All right, sir. I will note the same objection, overrule the objection, and the document will be admitted as Government's Exhibit No. 87.

(Thereupon the photograph referred to was received in evidence as Government's Exhibit No. 87.)

Bailey - direct

BY MR. BIERMAN:

Q Now, there are two remaining latent prints, sir. Did you make a comparison with these?

A Yes, sir, I did.

Q Whose prints were these, in your opinion?

A Marcos Ramos.

Q Did you use these exhibits, 86 and 87, as your only means of making your comparison?

A For demonstration purposes, yes, sir.

Q Did you make, independent of these charts, an identification of the other two latent prints?

A Yes, sir, I did.

Q And is it your determination that they were also made by Marcos Ramos?

A That's correct.

Q How many points of similarity were there?

A There were at least twelve or thirteen in each one of them.

MR. BIERMAN: No further questions.

Bailey - direct/cross

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q With regard to the other two latent prints of Marcos Ramos as identified by you--

MR. BIERMAN: Excuse me. I have one further question.

THE COURT: All right, sir. Ask it quickly.

BY MR. BIERMAN:

Q What result in coloration is there when you have treated exhibits for fingerprints?

THE COURT: He already testified to that. He has testified he treated it with this treatment and that caused it to turn to the color it is now. That is correct, is it not?

THE WITNESS: A brownish color, yes.

MR. BIERMAN: I just wanted to make sure.

BY MR. BIERMAN:

Q Did you also treat the dynamite packages?

Bailey - cross

A Yes, sir.

THE COURT: Good enough.

BY MR. GREENSPAHN:

Q In regard to the other two latent prints that you did not testify in detail about as to Marcos Ramos, did you find the same points of similarity?

A Do you mean the exact same points as I have on the charts?

Q Yes, sir.

A No, sir. It was a different portion of the hand.

Q What was the different portion of the hand? In other words, what portion does that reflect and what portions were the others?

A On the other two they were higher on the hand. The one that I have shown in the chart is from the deep base part of the hand near the wrist.

Q Were there any points of dissimilarity between the inked print and the latent prints that were developed?

A Insofar as ridge detail, no.

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Bailey - cross

Q Insofar as any constructive portion of the palm, hand or fingerprints that were reflected on the exhibits?

A No, sir. The outside of the latent print is not as complete as the inked print.

Q In what respect is it not as complete, sir?

A The inked print shows the whole palm print. The latent print just shows a section of it.

Q May I see the latent print?

THE COURT: The one on your left is the latent print and the one on the right is the inked print.

THE WITNESS: It is marked.

MR. GREENSPAHN: I see that.

BY MR. GREENSPAHN:

Q Where on that piece of newspaper did you take the fingerprint that is Government's Exhibit 86?

A It might be that these things have been discolored enough that you wouldn't be able to see it any more. I can show you two photographs, if

Bailey - cross

that will do any good.

Q Perhaps it would. If you have them, let me take a look at them, please.

A (Handing items to Mr. Greenspahn)

Q This is purportedly Exhibit 86. Whose is this, sir, do you know?

A That is Gutierrez.

Q Will you show me where on the photographs of the newspapers that you have these appeared on? I would appreciate it.

A This is it right here.

Q Show me where, if you will, by pointing to the area of the palm print.

A Let me make sure I have the right one.

Q Please do.

A The left palm print is at the top in here in the paper where it says "State" across the top of the paper.

Q Now, that reflects in its entirety, does it not, the full palm print of the individual whose print it shows?

A No, sir; barely the side and base

Bailey - cross

portion of the left hand.

Q Did you do any other fingerprint studies on any other materials?

A Yes, sir; numerous items.

MR. GREENSPAHN: I would like to inquire about those, but I suspect that is going to be very lengthy.

THE COURT: Well, let's ask him a general question and you may solve your problem.

BY MR. GREENSPAHN:

Q Did you have provided to you for comparative purposes the fingerprints of all nine of these defendants?

A Yes, sir, I did.

Q And other persons as well?

A Yes, sir.

Q And did you have provided to you the various exhibits that are now piled up and around the front of this courtroom?

A Some of those, yes, sir.

Q Did you examine the exhibits for latent prints, palm prints, fingerprints, against the

Bailey - cross

inked prints or palm prints that were provided to you?

A Yes, sir.

MR. GREENSPAHN: It is at this point that I would want to go into the specifics.

MR. BIERMAN: We will tell you that there are no further prints that were found that were identifiable.

THE COURT: I am going to ask you: Were you able to find any prints that you could identify positively connected with any of these defendants or any other persons?

THE WITNESS: No, sir.

THE COURT: Then your search was completely negative except as to what you have testified to?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q Were there latent fingerprints which could not be identified as to these defendants upon several or various of these exhibits?

Bailey - cross

A I had had a lower joint of a finger on one of the wrappers for a bomb.

THE COURT: But, as I understand it, you could not make any positive identification from that?

THE WITNESS: No, sir.

BY MR. GREENSPAHN:

Q Did you have a fingerprint lifted from the 57 millimeter recoilless rifle?

A No, sir.

MR. GREENSPAHN: That is all I have.

THE COURT: All right, sir.

MR. BIERMAN: Just a few very short questions.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q If you have one lower joint, are you able to then match it up with whose print it is?

A Presuming that the print would be in the file of the FBI and only if that person was named or his print submitted for that purpose. You could not search for it through our files.

MR. BIERMAN: That's all.

THE COURT: All right, sir. Thank you very much. You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen, I am getting ready to recess now until nine o'clock in the morning. I am afraid that it may be a little dark when we leave here. If any of you ladies have cars parked in the parking lot, I would appreciate it if some of you gentlemen on the jury would see to it that they get to their cars safely.

The same instructions I have given you, of course, will be applicable. We will be in recess until nine o'clock tomorrow morning. Court will be in recess until nine o'clock tomorrow morning.

(Thereupon at 6:12 p.m., the
hearing was recessed to
reconvene on November 13, 1968.)

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MIAMI, FLORIDA

November 13, 1968

(The hearing resumed, pursuant
to prior recess, at 9:00 o'clock
a.m.)

THE COURT: Good morning, ladies and
gentlemen.

Is the Government ready to proceed?

MR. BIERMAN: Ready, your Honor.

THE COURT: All right, sir. You may.

THEREUPON--

HENRY B. HEIBERGER,

called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Henry B. Heiberger,
H-e-i-b-e-r-g-e-r. I reside at Silver Spring,
Maryland, which is a suburb of Washington, D. C. I
am employed as a Special Agent of the Federal Bureau
of Investigation as a chemist assigned to the FBI
Laboratory in Washington, D. C.

LEONARD LAIKEN

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Heiberger - direct

DIRECT EXAMINATION

BY MR. BIERMAN:

Q What training have you received in the field of chemistry, Mr. Heiberger?

A I have a degree from the University of Georgetown in Washington, D. C.; a B.S. degree in chemistry.

I was two years in the graduate school of chemistry at the University of Maryland, College Park, Maryland. I was employed at the University of Maryland as an assistant professor in chemistry for a year and a half. And I was also employed at the University of Maryland on a research fellowship for a year.

Q What employment experience have you had in dealing with chemical analyses?

A After graduate school I was employed at the duPont Laboratory in Wilmington, Delaware, in instrumental analysis, especially in the plastics field--plastics, paints, small bits of material. Then I have worked with the Bureau for the last twenty-two years.

Heiberger - direct

Q During the course of this time, sir, have you had occasion to make chemical analyses and analyses of different materials?

A Yes, sir. The last twenty years I have spent in the laboratory working with paints, plastics and bomb residues. I am one of three men in the laboratory that has worked on every bombing case, from at least one or two a week, submitted to us for the last twenty years by police departments, FBI agents, the CAB in every airplane crash. My full time has been devoted to bomb residues, the materials found at the scene of a bomb.

Q I show you Government's Exhibit No. 39 in evidence, sir, and ask you if you have ever seen this before.

A Yes, sir, I have.

Q When and where did you see that?

A I received this stick in the laboratory. It was sent to me by registered mail from the Miami office. And I examined the contents of this stick. I placed my initials on the tape on the end, also on the tarp, the paper wrapper. And I

Heiberger - direct

analyzed the material inside this stick.

Q Did you then, sir, have an opportunity to view the eleven sticks of simulated dynamite? Will you step over here rather than have me bring them over to you?

A Yes.

Q These which have been marked as Government's Exhibit 45-A?

A Yes, sir. I examined the eleven sticks in the laboratory.

Q As a result of that examination, what conclusions were you able to reach, sir?

A I removed the material from the inside of the paper wrapper and I found that the material in all of the eleven sticks and the material in this stick consisted of a mixture of sodium chloride (common table salt) motor oil, starch and flour. I found no explosive residues, no explosive constituent; nothing which would cause an explosion in any of these. And on the material I ran a quantitative-- that is, the amounts of each constituent--the amount of sodium chloride in this stick and the amount of

Heiberger - direct

sodium chloride in each of the eleven other sticks, and I found that the percentage of motor oil, the percentage of flour, the percentage of starch and the percentage of salt agreed. That is, the composition of this stick was the same as the composition of the eleven other sticks.

Q Then, sir, were you able to conclude that they were manufactured under the same specification?

A Yes, sir. They would have had to have been.

Q Showing you what is a part of Government's Exhibit 45-A, the short stick of simulated dynamite, was it in that size, sir, when you received it?

A Yes, sir. This was the stick that one end of it is shredded, and this stick was in a container with the other ten sticks. This is one of the eleven, and it was shredded in this manner. There was loose material laying along with it as well as in a bag which was given to me.

Q From your analysis of that material and

Heiberger - direct

the contents of that stick, were you able to reach any conclusions as to that stick, sir?

A In the first two or three inches of this stick and in the loose material, the paper and the mixture of salt, motor oil, starch and flour that was in a bag which was given to me separately, were small bits of metal. These pieces of metal were in the size of the head of a pin up to a quarter of an inch square, and there were little pieces of metal which I ran in the laboratory on the spectrograph, and I determined that these were pieces of aluminum metal, and I compared them composition-wise. These pieces of metal were with another object which was given to me, which was portions of a blasting cap, and I found that the little pieces of metal in this stick and in the debris that was supposed to have been associated with this, that these little pieces of metal were the same in composition as the remnants of a blasting cap which had been exploded.

Q Were you able to reach a conclusion from that?

A I concluded that the particles of metal found in this stick could have come from the blasting

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Heiberger - direct
cap which was exploded and sent to me.

Q I call your attention to Government's Exhibit 45. Do you recognize that, sir?

A Yes, sir, I do. This is the container in which the ten full sticks and this one partial stick, these eleven sticks, they were inside that container when I received it in the laboratory in Washington, D. C.

Q Calling your particular attention to the yellow paint markings on that, were they on there when you received it?

A No, sir, they were not.

Q Did you then give it to someone?

A I was asked to do a--to determine as to where that may have come from. And I was asked a lot of questions about weld joints and so forth. I am not a metallurgist. So I gave it to the metallurgist in the FBI Laboratory.

Q Who was that?

A Agent Leon LaRock.

Q All right.

A And Agent LaRock did some work on it.

Heiberger - direct

And when he returned it to me, he placed his initials on it in the yellow marking pencil.

Q Did that change it in any way other than the fact that the yellow markings were present?

A No, sir. I don't know of any way he changed it.

MR. BIERMAN: All right. I have nothing further.

THE COURT: All right. Cross examination, please?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Sir, when you received Exhibit No. 45, the cylinder, did you make an inspection of all of the contents of the cylinder?

A Yes, sir, I did.

Q Did you remove the objects that were within the cylinder?

A Yes, sir.

Q Did you take anything by way of fragments, anything in the way of any metal or metallic origin or anything of a chemical composition

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Heiberger - direct

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CROSS EXAMINATION

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A Yes, sir.

Q Did you take anything by way of fragments, anything in the way of any metal or metallic origin or anything of a chemical composition

Heiberger - cross

out of the cylinder other than the dynamite sticks and the other matters that you discussed?

A At the time I received it, I was under the impression that it was a live bomb. Inasmuch as it is so tremendous in size for the type of thing I see in the laboratory, I removed it and didn't find out until several hours later that it probably was not a live one. So that I removed everything from it.

Q What I am getting at is, I noticed the moment when Mr. Bierman lifted it up there was a noise of something coming out of there, sounded like articles. Did you make any observation of any such particles?

A I removed everything from it--dirt, rust. I even wire brushed the inside to see and I examined the inside for any kind of markings, to see if there were markings inside the metal.

Q Were there any kind of markings within the inside?

A I couldn't see. It was very rusty.

Q I presume that you are familiar with the matter in which a blasting cap blasts or explodes?

Heiberger - cross

A Yes.

Q Is that a directional force? In other words, does it explode in one direction or does it go off in many directions?

A I have seen many movies, and I have done it myself many times, and it is very definitely a cone-shaped effect; that is, you can place a stick of dynamite and put the blasting cap in this end of it and when the blasting cap goes off, the cone goes down so that the force of not only the blasting cap but also a lot of times the dynamite itself will create a big crater, because the force will be down. If it is pointed up, the cone will completely destroy an object above it. So that depending on where the blasting cap is in a stick of dynamite, whether it's in the middle or the end, the cone comes out of the blasting cap, just out of the bottom, so to speak, just like out of a flashlight.

Q Wouldn't you anticipate that portions of that blasting cap would have presented themselves in the cylinder itself?

A They may have, because the paper was

Heiberger - cross

completely shredded here, and this was an inner stick. But I do not know if someone removed them before me. But when I got it, this was not an outer stick. There were eleven sticks there, and it is possible-- in fact, some of the particles had to go through this wrapper and may have gone into adjacent sticks or hit the side of the container, yes, sir.

Q Of course, you didn't find any?

A I didn't find any that were significant to me, no, sir.

Q Based upon your experience and training, what is the force capacity of a blasting cap? In other words, is it a considerable force, is it a light force or what?

A This is a little out of my field as to the exact actual force.

Q I am not talking about in terms of physical principals, but does it go at some impetus or does it just--

A I have seen ones where a man lost a hand. I have also seen where it has gone off and a man has lost a finger. I think it varies. People have

Heiberger - cross

lost teeth when they have put them in their mouth and yet lived. So that it kind of varies as to what type of blasting cap you have.

Q From your examination of the other ten sticks of simulated dynamite, do you find any portions of them embedded in those sticks?

A No, sir. I didn't find any. I didn't really look. After I found so many in this, I was more interested at the time in whether there was any explosive, because I was interested--if one stick there is an explosive, I've got problems. And so I was interested in finding out if there was any explosive in any of the sticks. And there may have been a few little particles which I was not interested in.

Q And there were no markings that you found indicating whether anything hit with any corresponding force against the interior of that cylinder?

A No, sir.

Q You did indicate that you compared the portion of the blasting caps that you had been given

Heiberger - cross

with the fragments that you found in the short stick?

A Yes, sir.

Q Your statement was that this could have been--you said it could have come from the blasting cap. Now, is there any other source to which you could attribute this? You used the word "could." You didn't go beyond the word "could."

A I didn't associate it with that particular one. This is a military blasting cap. And they are all mass produced. And this metal is the same and there might be 10,000 blasting caps all made on the same machine by the same company. And if you presented me with 10,000 of these, produced by the same company at the same time and if every one of them had been exploded, I couldn't relate these particles with any one particular one. It is from that type of blasting cap.

Q Did you, sir, open up the short stick?

A Yes, sir, I did.

Q Entirely?

A I opened up both ends of all sticks and I removed everything from all of them, and then I

Heiberger - cross

repacked them again.

Q These sticks are not in the same condition they were at the time?

A No, sir. They have been repacked with the same material I took out.

MR. GREENSPAHN; I have nothing else. Thank you.

THE COURT: Redirect?

MR. BIERMAN: No redirect.

THE COURT: All right, sir. Thank you. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

LEON LA ROCK,
called as a witness on behalf of the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Leon LaRock. I live at

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LaRock - direct

3637 Camelot Drive, Annandale, Virginia. I am employed by the Federal Bureau of Investigation.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent LaRock, I will not go into your type of expertise but I will just ask you a simple question. Will you step down and look at Government's Exhibit 45?

A Yes, sir.

Q Have you seen this before, sir?

A Yes, sir, I have.

Q And these yellow markings here, did you place these on there?

A Yes, I did.

Q Did they in any way affect the metal or the container of this bomb?

A No. They are only for identification purposes.

MR. BIERMAN: I have nothing further.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did you concern yourself professionally

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LaRock - cross

Mr. LaRock, with any other items that were submitted in connection with this case?

A Yes, I did.

Q What were those items, sir?

A I examined some pieces of chain, some "S" clips and some fragments of snap hooks.

Q Were you given any steel or sheet metal fragments to examine?

A Yes, I was.

Q With regard to those, do you know from whence they came and what they were?

A They were fragments submitted to me as residues or fragments of metal recovered at the scene of some bombings.

Q Were you able to make any identification or comparative tests relating to those fragments with any other objects that were given to you?

A No, sir.

MR. GREENSPAHN: Thank you, sir. I have nothing else.

THE COURT: Redirect?

MR. BIERMAN: No redirect.

THE COURT: Thank you, Mr. LaRock.
You may be excused.

(Witness excused)

THE COURT: Call your next witness,
please.

MR. BIERMAN: I will recall Captain
Brodie.

THEREUPON--

THOMAS G. BRODIE,
having previously been duly sworn, was recalled and
testified further as follows:

THE CLERK: Please state your full
name for the record.

THE WITNESS: Thomas G. Brodie.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Brodie, I would like you to examine
what has been marked as Government's Exhibit 73-E for
identification, which includes two parts. Tell me,
sir, if you can, what that is.

A Yes, sir.

Q What is that, sir?

A That is a nose for a homemade aerial

Brodie - direct

bomb.

Q What would be the function of the dark pin in the top?

A That is a firing pin.

Q Showing you Government's Exhibit 71-E for identification, can you tell me what relationship, if any, this would have to that?

A This is the safety pin.

Q A safety pin? Where would that go, if any place?

A In through this hole and into the firing pin.

Q Then the function of that, sir, is to prevent this from exploding prematurely, is that correct?

A Yes.

MR. BIERMAN: Your Honor, I would offer Government's Exhibit 73-E and 71-E into evidence.

MR. GREENSPAHN: Your Honor, there is no showing of any materiality or relevancy. If that is part of an aerial bomb, there is nothing in this

Brodie - direct
case involving any aerial bombs.

THE COURT: The objection is overruled.
They are admitted into evidence.

(Thereupon the objects referred
to were received in evidence as
Government's Exhibits 71-E and
73-E.)

THE COURT: Do you have anything
further?

MR. BIERMAN: No, sir.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Brodie, as Government's Exhibit
73-E appears, is there anything of a dangerous
propensity about it, or is it just a piece of metal?

A It's not dangerous, not explosive, no.

Q This heavy object which I don't know
what the number of it is, but what you identified as
a firing pin, was this, when you observed it, in a
fixed position in the object that I hold in my left
hand (indicating Government's Exhibit 73-E)?

Brodie - cross

A No.

Q Where would this firing pin be if it were properly inserted?

A Into the nose.

Q Would it be at that time in a fixed position, or would it just be sitting loosely such as this?

A That would be sitting loosely. The point goes inward.

Q Still loose? Would it be sitting like that?

A Yes. In that nose, the opening there is a little wider than it should be.

Q Did you have submitted to you for examination any other piece or quantity of material that would relate to this piece of metal that I hold in my left hand?

A I have seen similar ones.

Q No. In this case?

A No.

MR. GREENSPAHN: That is all I have.

Thank you.

THE COURT: Redirect?

MR. BIERMAN: No redirect.

THE COURT: All right, sir. May this witness be excused?

MR. GREENSPAHN: Yes, sir.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THEREUPON--

TOMAS PEDRO REGALADO,
having previously been duly sworn, was recalled as
a witness and testified further as follows:

MR. KLEIN: Please state your full
name for the record.

THE WITNESS: My name is Tomas Pedro
Regalado. I am Latin News Editor of WCKT, Channel 7.
BY MR. KLEIN:

Q Mr. Regalado, you previously testified
that you were at a conference--

THE COURT: Yes, sir. He testified he
was at a conference where there was a hooded man and
they met in a small living room and from there they
went into a small room where there wasn't anything but

Regalado - direct

a bed, and a desk and a man was sitting there and they took pictures and talked to him. All right, let's go.

BY MR. KLEIN:

Q Are you familiar with that document I just handed you?

A Yes, sir.

Q When did you first see that?

A Well, that was in an envelope on a small table in that room that we went into.

MR. KLEIN: Will the Clerk please mark it for identification only?

THE COURT: All right.

MR. GREENSPAHN: If it please the Court, I would object to the bringing back of a witness who has already testified about the events that he apparently is now going to testify to. This is doing by indirection that which can be done, under the Court's rules, by direction. The concept of redirect examination and re-redirect examination is now being vitiated by the fact that this man is back testifying about an event that he testified to

Regalado - direct
yesterday.

THE COURT: Well, I don't know what he is going to testify to.

MR. GREENSPAHN: Right at this point he has not testified to anything he hasn't already testified to. I don't know what the purpose of recalling him is, but he testified, when he was called, as to the envelopes and the paper inside and being given to me, et cetera. That is all he has testified to up to this point.

BY MR. KLEIN:

Q I am going to show you another document. Are you familiar with that?

A Yes, sir.

Q How did you come to see that?

A Well, that was handed to us in an open, public news conference. I believe it was in the Biscayne Terrace Hotel.

Q Who was holding that news conference?

A Dr. Orlando Bosch.

Q Was that received by you from him?

A No.

Regalado - direct

Q Was it received at that time?

A At that time it was, but not from him directly; from somebody else, I don't know who.

MR. KLEIN: I will offer this into evidence at this time.

MR. GREENSPAHN: Objection as to materiality and relevancy, your Honor.

THE COURT: I am not satisfied with where he got it from. He said he went to the news conference and got it from somebody. I don't know where he got it from. I don't know that it is in any way binding on Dr. Bosch.

BY MR. KLEIN:

Q Do you know who you got it from if it wasn't from Dr. Bosch?

A I don't know exactly who gave it to me because at that time I was paying attention to Dr. Bosch's statements, and somebody put it at my side. So I don't know who did.

Q Do you recall what Dr. Bosch was saying at that time, to the best of your recollection?

A The same words that are in that

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Regalado - direct

document.

Q The same thing that is contained in that?

A Yes.

MR. KLEIN: We offer it at this time.

MR. GREENSPAHN: The same objection, your Honor.

THE COURT: All right, sir. I will overrule the objection and admit it into evidence.

That constitutes what Dr. Bosch said orally? This paper is what he said orally at this press conference?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

MR. KLEIN: Nothing further.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit No. 89.)

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did you receive any typewritten or

Regalado - direct

other communications in the mail or photographs in the mail, Mr. Regalado, at any time relative to shipping?

A Yes, I did.

Q What did you receive?

A Well, I received some mail, some press releases, and one time some photograph came through the mail to my house, to the station I work for.

Q I would show you Government's Exhibit 73-C and ask you if this is the photograph that you received in the mail.

A It's similar to what I received.

Q To your personal knowledge as a newsman in this community, did other news media reporters, people connected with TV and newspapers, receive similar mailings?

A All the news media, sir.

MR. GREENSPAHN: Thank you, sir. I have nothing further.

THE COURT: Redirect?

MR. KLEIN: No redirect.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Call your next witness.

MR. BIERMAN: We will call Mrs. Sophia Saliba back.

And prior to Miss Saliba coming in, we would offer Exhibit No. 88, the news release from the hooded press conference.

MR. GREENSPAHN: There is absolutely no predicate laid for it, your Honor, establishing any connection between these defendants and anybody as to that instance and that event. The last correspondence, I might add, your Honor, that was put in through the witness Regalado was a letter that was signed by Dr. Bosch or a press release signed by Dr. Orlando Bosch.

THE COURT: I admitted that on the basis of this witness's testimony that what he received was what Dr. Bosch had orally said. So it didn't make any difference to me who gave it to him, because if it was an accurate restatement of what had been said orally, I would admit it into evidence.

With respect to this hooded conference thing, I don't presently see any evidence in there that will connect that particular release with any of these defendants.

MR. BIERMAN: All right.

THE COURT: And I will sustain the objection to it.

MR. GREENSPAHN: Thank you, sir.

THEREUPON--

SOPHIA SALIBA,
having previously been duly sworn, was recalled as a witness and testified further as follows:

THE CLERK: Please state your full name for the record.

THE WITNESS: My name is Sophia Saliba.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mrs. Saliba, I show you Government's Exhibit 89 in evidence and ask you if you prepared a translation of that.

A Yes, I did.

Q I show you what will be marked Government's Exhibit 89-A and ask you if this is the

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translation.

A Yes, it is.

Q Are there any idiomatic expressions or colloquialisms or anything in the original documents which you, in your translation, have had to give a literal interpretation to? In other words, is there anything that you yourself want to explain or is that an accurate translation of the original document?

A Well, I think it follows quite closely, as I remember it. But I would have to read it over and compare in order to say for certain.

If I deviate from a close translation, I usually put a footnote to indicate, and I don't remember having put one on this.

THE COURT: All right, ma'am. Thank you.

MR. BIERMAN: We offer Exhibit 89-A into evidence.

MR. GREENSPAHN: No objection, your Honor.

THE COURT: All right, sir. It will be admitted and received in evidence.

Saliba - direct

(Thereupon the instrument
referred to was received in
evidence as Government's
Exhibit No. 89-A.)

BY MR. BIERMAN:

Q I show you Government's Exhibit 73-D
and ask you if you have prepared a translation of
that?

A I have.

Q Do you have that?

A Well, I had prepared a translation of
this previously, and I was working on it now preparing
another one, because I didn't have that copy and I
haven't quite completed it.

Q How much longer will it take?

A There is about another paragraph to go.

MR. BIERMAN: If counsel will not have
any objection, if she could complete this and then we
will bring it in?

THE COURT: That is all right. Go
ahead and complete it.

MR. GREENSPAHN: Why don't you finish

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it?

THE COURT: Why don't you just go ahead and let the lady finish it and then we can bring her back.

MR. BIERMAN: Okay.

THE COURT: Mr. Clerk, wherever there is a translation of an original document, I want the translation clipped to the original document.

THE CLERK: Yes, sir.

THE COURT: So that they cannot get mixed up with other papers.

MR. BIERMAN: Your Honor, there was some confusion this morning as to whether or not Government's Exhibits 84 and 85 had been admitted into evidence. So we will re-offer them at this time. These are the fingerprint cards.

THE COURT: All right, sir. Is there any objection, Mr. Greenspahn?

MR. GREENSPAHN: No objection, your Honor.

THE COURT: All right, sir. They will be admitted into evidence.

Saliba - direct

(Thereupon the fingerprint cards referred to were received in evidence as Government's Exhibits Nos. 84 and 85.)

MR. BIERMAN: And we would also offer the foreign ship registrations into evidence before the jury. We previously offered those but not before the jury.

THE COURT: I thought they were offered in evidence.

MR. BIERMAN: They were offered outside the presence of the jury and we would offer them now.

THE COURT: All right, sir. Do you make the same objection?

MR. GREENSPAHN: Yes, sir.

THE COURT: I will overrule the objection and admit the--

Are you talking about the ship registration?

MR. BIERMAN: The registrations with the stamps from the different countries.

THE COURT: All right.

Saliba - direct

MR. GREENSPAHN: Your Honor, I said "Yes" when you asked me if I made the same objection. I presume the Court will recall the objection I made at the time?

THE COURT: Yes, sir. I have admitted them upon the basis that the evidence shows that they are official documents and, therefore, are subject to being admitted into evidence upon proper certification.

MR. GREENSPAHN: I also objected, as I recall, on the grounds of relevancy and materiality.

THE COURT: Yes, I realize that.

(Thereupon the registrations referred to were received in evidence as Government's Exhibits Nos. 31 through 36, inclusive.)

MR. BIERMAN: And we offer Government's Exhibit No. 52 into evidence, it being a copy of PATRIA, containing the story and the picture of the MIKAGESAN MARU.

MR. GREENSPAHN: The same objection I interposed yesterday.

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THE COURT: Yes, sir, I know.

MR. BIERMAN: I call the Court's attention to Exhibit 73-C in relation to this.

THE COURT: I know what that is. I am going on the basis of the state of the evidence as it is at the present time. I am going to overrule the objection as to Exhibit 52 and permit that portion of it--all you want is the front page?

MR. BIERMAN: Yes, sir, your Honor. And we have a translation of that already prepared. Mrs. Saliba has it with her.

Other than Miss Saliba and some publishing, we are prepared to rest, your Honor.

THE COURT: All right.

At this time, ladies and gentlemen, we will take a short recess until this lady finishes this translation. As soon as she does, we will start again.

The Court will be in recess until such time as the translator has finished.

(Thereupon a short recess was taken, pursuant to which the

following proceedings were had:)

THE COURT: Are you ready to proceed?

MR. BIERMAN: Yes, your Honor.

THE COURT: All right. You may.

THEREUPON--

SOPHIA SALIBA,

the witness on the stand at the time of the recess,
resumed the stand and testified further as follows:

DIRECT EXAMINATION (continued)

BY MR. BIERMAN:

Q Mrs. Saliba, have you prepared a
translation of Government's Exhibit 52?

A Yes, I have.

Q Is this it?

A This is it.

MR. BIERMAN: May this be marked as
Government's Exhibit 52-A?

THE COURT: Yes, sir.

MR. BIERMAN: We will offer that into
evidence.

THE COURT: All right, sir.

MR. GREENSPAHN: Subject to cross
examination as to the accuracy of it, I have no

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objection.

THE COURT: All right, sir. It will
be admitted.

(Thereupon the instrument
referred to was received in
evidence as Government's
Exhibit No. 52-A.)

BY MR. BIERMAN:

Q Have you prepared a translation of
Government's Exhibit 89?

A Yes.

Q Is this it?

A That is it.

MR. BIERMAN: May this be marked
Government's Exhibit 89-A?

MR. GREENSPAHN: No objection.

THE COURT: All right, sir. It will
be admitted.

(Thereupon the instrument
referred to was received in
evidence as Government's
Exhibit No. 89-A.)

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BY MR. BIERMAN:

Q Have you prepared a translation of Government's Exhibit 73-D?

A Yes.

Q Is that the handwritten translation that we were discussing?

A Yes, it is.

Q Would you read this translation, please?

MR. GREENSPAHN: May I have either a copy of the Spanish or English, something that I can follow along with?

THE COURT: Isn't the lady's handwriting legible?

THE WITNESS: I think it is. I write a schoolgirlish writing.

MR. BIERMAN: It looks legible to me. Compared to mine, anything is legible.

THE COURT: I do not see any reason why it should be read into evidence. Offer it into evidence.

MR. BIERMAN: I will offer that as

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Government's Exhibit 73-D(1).

MR. GREENSPAHN: No objection.

THE COURT: All right, sir. It will be admitted.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit No. 73-D(1).)

BY MR. BIERMAN:

Q Have you examined Government's Exhibit 73-A in Spanish?

A Yes.

Q Will you tell me how it compares with Government's Exhibit 89 in Spanish?

A It seems to be an exact copy of it, judging from the paragraph beginnings and the wording of the first paragraph. I would say it is, except I notice that there is a correction here on this.

THE COURT: Which exhibit are you speaking of?

BY MR. BIERMAN:

Q Which one are you referring to?

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A 73-A, and it says "I repeat, thanks" and I say "Thank you."

That is a handwritten correction there. There may be something else on the other pages which I didn't catch.

MR. BIERMAN: Your Honor, we would offer another edition of PATRIA, the one with reference to the LANCASTRIAN PRINCE, which is Government's Exhibit 54, based on the fact that the bomb did not explode and that any story about the bomb splitting would have to come from those people--would have to come from the people who placed the bomb on there. And we have scientifically tied that in.

Have you a translation of that on the LANCASTRIAN PRINCE?

A Yes, the one of September 11.

Q Here it is in English, if you prefer to read it in English.

THE COURT: Is this tied in with any of the exhibits that are in evidence?

MR. BIERMAN: Well, it is tied in with the fact there was an alleged explosion on board, and

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we have tied in the dynamite and the alleged explosion, and we suggest that no one else would know about it except for the people who placed it on board. We have tied that in specifically with three defendants.

MR. GREENSPAHN: What three defendants have been tied into it?

MR. BIERMAN: Marcos, Jorge and Orlando, with the foam rubber.

MR. GREENSPAHN: I don't agree with what counsel has said. There is nothing in that article that I know of that ties in any of these defendants. It is a newspaper article; it is not only an inaccurate reporting of the news but it is an editorial and a statement of conjecture based upon hearsay.

THE COURT: I am going to sustain the objection.

MR. GREENSPAHN: Thank you.

MR. BIERMAN: I have nothing further.

THE COURT: Does the Government rest?

MR. BIERMAN: No. We have one other matter.

THE COURT: All right. Let's go.

MR. GREENSPAHN: I have no questions.

THE COURT: Thank you, ma'am.

(Witness excused)

MR. BIERMAN: Your Honor, we would ask the Court to take judicial notice of the fact that New Orleans, Tampa and Miami and the ports thereof are within the jurisdiction of the United States.

THE COURT: All right, sir. The Court will do so.

MR. BIERMAN: And we would request permission to publish certain exhibits to the jury.

THE COURT: All right, sir.

MR. BIERMAN: Ladies and gentlemen of the jury, this is Exhibit No. 75 which begins with a foreword and contains the proposal contained in relationship to the M.I.R.R., Dr. Orlando Bosch, Coordinator, and it says that the first stage will take three months and it contains actions to be carried out within Cuba and then the first stage of three months showing actions to be carried out from outside Cuba. And No. 2 calls for a tax on vessels trading with Communist Cuba, to make insurance policies

impracticable, thus enforcing a complete and effective blockade of the island.

(Thereupon counsel for the Government published to the jury various and sundry exhibits, pursuant to which the following proceedings were had:)

MR. BIERMAN: I have nothing further.
The Government rests.

THE COURT: All right, sir.

Ladies and gentlemen, we will again have to take a recess for a few minutes. During that recess, of course, the same instructions will be applicable. I will have to ask you to excuse us for a few minutes.

(Thereupon the jury was excused, pursuant to which the following proceedings were had:)

THE COURT: Does the defense have any motions it wishes to present?

MR. GREENSPAHN: The defense has two motions, the first of which is a motion to strike

various pieces of evidence that have been admitted before the Court and were admitted by the Court subject to being tied up with the defendants.

Firstly, there is Exhibit 8A, one-inch surgical tape. Unfortunately, your Honor, I cannot reach down into this morass before me and pull out the exhibit, but it is up here somewhere. There is, to my knowledge, no relevancy to this and there has not been shown to be--

THE COURT: Well, there is evidence, as I understand the evidence, and recall it, very specifically that this homemade sight was fastened to the muzzle of this 57 millimeter recoilless rifle by that tape which was taken off for the purpose of conducting tests at the FBI Laboratory with respect to the wire.

MR. GREENSPAHN: The Court is right about that. I stand corrected.

THE COURT: All right, sir.

MR. GREENSPAHN: But more important is Exhibit No. 10, Exhibit No. 11, Exhibit No. 12 and Exhibit No. 13, which are the entry papers for the vessels GRANWOOD, ASAKA MARU, MIKAGESAN MARU, and the CARIBBEAN VENTURE.

Your Honor, the Government has gone to great lengths to show the occurrences involving these vessels, but there is not one iota of evidence verified before this Court as to those vessels which would indicate any participation in any respect by the defendants in this case. And I suspect and submit respectfully to the Court that the inclusion of these evidentiary items will serve in great measure to prejudice these defendants before the jury and will, of course, encumber this record.

THE COURT: Well, as I understand those exhibits, they were introduced primarily and solely for the purpose of proving the nationality of the ships and the fact that they were in particular ports and departed particular ports at certain times. I have admitted those documents upon the theory that they were official documents required by law and maintained by Customs pursuant to law. And I can't, under the Government's theory of the case, accept counsel's convention that they are wholly irrelevant and immaterial. So I will deny the motion with respect to those.

MR. GREENSPAHN: And I did not name, but

I should have named, also, the entry papers of the COROMOTO, that being Exhibit No. 15.

THE COURT: We will include that in the objection and that will be considered as having been offered in the same objection and I will make the same ruling with respect to it.

MR. GREENSPAHN: Your Honor, and upon the same principles, the photographs of the ASAKA MARU, which again, I submit to the Court, can serve no useful purpose in the determination of any of the evidence by this jury and can only serve to confuse them. There is no relationship, to my seeing of the pictures, that there has been painted in the last several days, between any of these defendants and the acts purportedly occurring on the ASAKA MARU.

THE COURT: I will overrule the objection.

MR. GREENSPAHN: And the same objections as to Exhibits 37, 38, 37-A and 38-A, the bills of lading and the waybills which have been introduced relating to material that was sent. And there are other portions of the Government's case which I feel have not been tied up or linked to these

defendants.

THE COURT: What materiality does that have?

MR. BIERMAN: Those relate to the dynamite to show it was shipped.

MR. GREENSPAHN: 37-A and 37-B have been stricken, which would leave only the two others.

MR. BIERMAN: We would submit, your Honor, even though they have been submitted, the documents on their face, one being shown by the FBI from Birmingham and one being shown from the FBI from Miami, whether or not the man personally received it would reflect the fact that this was shipped to him. They are identical to each other.

THE COURT: Well, I think to some extent they are corroborative of the Government's witness's testimony to the effect that simulated dynamite was agreed to be made. It was received by the office and sent to the Miami office.

I will deny the motion with respect to that.

MR. BIERMAN: 37-A and 37-B were stricken, but we are talking about No. 38 now.

MR. GREENSPAHN: Your Honor, there were several photographs of vessels. The ASAKA MARU and the COROMOTO were pictured. They were offered at various stages of the case.

I would take the time here to note my blanket objection to each and every photograph that relate to any vessels other than the POLANICA and other than the LANCASTRIAN PRINCE.

THE COURT: Well, I am going to deny the motion although I want to get straightened out with the Government. This indictment charges in the conspiracy count that these people did conspire with each other in violation of the statutes by knowingly and willfully causing damage to vessels of foreign registry docked at the Port of Miami, Dodge Island, in and for the Southern District of Florida, within the jurisdiction of the United States and elsewhere by placing explosives in and upon the said vessels.

Is it the Government's position that that language within the indictment is sufficient to include the alleged bombings of these other vessels, or is that testimony offered not in proof of the commission of an offense charged in the indictment but

merely for the purpose of showing knowledge and intent and motive?

MR. BIERMAN: We would suggest it is within the indictment as part of the planned conspiracy, and if the conspiracy were hatched within the United States, the acts were evidently--

THE COURT: In the preliminary proceedings in this case, I did order the Government to give some information to the defense. Was any request made by the defense with respect to what might be encompassed in that language and elsewhere?

MR. BIERMAN: There was no request of that nature. There was a request for the names of the ships and we gave a detailed list of the names of the ships and where they were registered.

THE COURT: All right, sir. Then in that event I will deny the motion.

MR. GREENSPAHN: If it please the Court, may I have a moment just to check my motion to see if it is an accurate statement or not?

THE COURT: All right, sir.

MR. GREENSPAHN: It may well be an accurate statement, but I don't recall it that way.

THE COURT: What I am trying to ascertain is whether this position of the Government is an afterthought--that information as to these instances was requested but not given to you. There was a bill of particulars, as I recall it, that was furnished, that gave some information, but I do not recall it specifically.

MR. BIERMAN: All of the ships that we have proved up were listed in the bill of particulars.

THE COURT: All right, sir.

MR. GREENSPAHN: Apparently the Government's statement is correct, your Honor.

THE COURT: All right, sir. Then I will deny the motion.

MR. GREENSPAHN: Your Honor, there were other items--two links of chain and deformed metal hooks which were never tied into any of these defendants.

MR. BIERMAN: We will agree it wasn't.

THE COURT: All right, sir. I will grant the motion.

MR. GREENSPAHN: And as I have it,

No. 43 on my list is not wholly accurate.

THE COURT: What is No. 43, Mr. Clerk?

THE CLERK: Two links of chain.

THE COURT: I don't think that was connected up.

MR. BIERMAN: No, it wasn't.

THE COURT: I will grant the motion.

MR. BIERMAN: It was connected on cross once by Mr. Greenspahn.

THE COURT: Well, there was testimony about a chain, but I don't think these specific links of chain were testified to or identified. The motion is granted.

MR. GREENSPAHN: The same is true of the next one, Exhibit No. 44, which we have described as three pieces of brass.

MR. BIERMAN: We will agree on that.

THE COURT: All right. The motion is granted.

MR. GREENSPAHN: Your Honor, I would renew at this time my objection and move to strike the various newspaper articles, the exhibit, that the scope of the newspaper articles goes way beyond the

scope of what I believe the Court intended in admitting the document.

Primarily, if the Court will recall, there was a point in this trial when the question of damage to one of the vessels was raised, and I objected to it and the Court agreed with me that this was not material and it didn't matter whether it was one cent or \$1,000,000.

THE COURT: I ruled at that point it didn't make any difference whether it was a dollar or \$100,000, and that the extent of the damage was immaterial.

MR. GREENSPAHN: At that point it became apparent to me that it was the Court's feeling at that time as the Court has now announced.

And in the article that was read, there was mention made of insurance companies and of \$175,000 worth of damage, which I think is prejudicial in the sense that the indictment and the statute under which the indictment is framed do not require proof as to dollars and cents value, but the showing of the enormity of the damage is in and of itself prejudicial to the defendants and it goes way beyond what is

required in proof under the indictment.

I noticed, frankly, the faces of a couple of jurors when that \$175,000 was mentioned, and it had exactly the apparent effect that I anticipated that it would have. And I don't know, again, with regard to all of the other newspaper articles how much of it is fact and how much of it is fantasy.

THE COURT: Well, I have kept all the other newspaper articles out. One newspaper article I admitted because it was apparent to me that the photographs contained in the article were identical with the photographs which had been taken from the home of Dr. Bosch and, therefore, I felt that a reasonably minded jury could infer that the other photograph came from Dr. Bosch.

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The second article was on the basis, as I recall it, that there was a written declaration or something that was furnished by Dr. Bosch to the newspapers upon which that was based. Now, that is my recollection. There has been so much here I could have--

MR. BIERMAN: That declaration is in evidence and there is a translation with it and it also

mentions the \$175,000.

THE COURT: That was the basis upon which I admitted those two articles into evidence. The others I have sustained your objection to and have not permitted them to be received in evidence upon the ground that they constituted hearsay and they were not definitely connected with any of the defendants and, therefore, I didn't think that they were competent evidence.

MR. BIERMAN: Only one has been admitted into evidence, as I understand it, your Honor, which is the one--

THE COURT: The one with the picture, and there was another one, wasn't there?

MR. BIERMAN: We offered it to the Court.

THE COURT: And I sustained the objection to it.

MR. GREENSPAHN: I would say again parenthetically with relation to the photograph that is on the front page of it that the inference can be drawn that this is the same photograph that Dr. Bosch had. It didn't catch my eye before but it just caught

my eye. This is the photograph that has been put into evidence by the Government and it is the Government's photograph.

THE COURT: I didn't admit that in evidence. Your objection has been sustained to that.

MR. GREENSPAHN: The same inference can be drawn.

THE COURT: No, sir. I take a different viewpoint. What the Government puts in evidence is one thing. What they have obtained, for example, from the home of Dr. Bosch is something else.

My reaction is that, having obtained that photograph--that one particular photograph--from amongst his possessions, a reasonably minded jury could infer that he had had the copies made and did send them out for publication.

With respect to the other photograph, I don't think you can make any such inferences at all and consequently I sustained your objection to it.

MR. GREENSPAHN: All right, sir. The next exhibit was, as I have it, No. 65. That was a gasket that was taken from the metal chamber on the LANCASTRIAN PRINCE.

THE COURT: I am going to deny the motion with respect to that, because I think for whatever evidentiary value it has, it is admissible in connection with the container and the other matters that were in it.

MR. GREENSPAHN: No. 68, which was a piece of wire, was never really, to my knowledge, tied in.

THE CLERK: That was a blasting cap.

MR. GREENSPAHN: There was a piece of wire, and it must have been right next to it.

MR. BIERMAN: There was a piece of wire connected to the blasting cap.

MR. GREENSPAHN: Well, I will withdraw that.

THE COURT: That was Captain Brodie, I believe, who testified he found that wire inside the canister and it was connected to the blasting cap.

MR. GREENSPAHN: I will withdraw that.
Now, the port schedule--and I am not sure of the number of this--I think it is 71-A--the port schedule dated May 13, 1968--

THE COURT: As I construe those,

Mr. Greenspahn, they are not evidence of the matters that are directly charged in this indictment but they are relevant in that they show an interest on the part, at least, of the participants who had that and who marked it in these particular vessels, which again I think a jury could reasonably infer from his keeping track of that vessel in May that he may well have wanted to place a bomb on it the next time it came into port. And they may not. But I think, looking at the Government's case in the most favorable light, that would be so because it is extremely unusual for a person who was not interested in maritime matters to have a list of arrivals and departures and have vessels of foreign registry circled or underlined, particularly the ones which form the basis of the first count and the second count in the indictment. So for whatever value it may have, I have admitted it into evidence and I will deny your motion to strike it.

MR. GREENSPAHN: All right, sir.

Now, the paper bag and the two blue pieces of material.

THE COURT: As to the paper bag there is

no testimony about it at all, and if it is in evidence I will grant your motion to strike it.

THE CLERK: It was not admitted.

MR. GREENSPAHN: It was not admitted? All right. But the two pieces of blue material were admitted. There is no testimony at all about this. The only testimony is that it was a black hood on the individual described as Ernesto.

THE COURT: I will agree with you to that extent. However, again, I think that they possibly could have relevancy and materiality in view of the type of the offenses which are charged in the indictment.

Again I would say, looking at the Government's case in the most favorable light possible, the jury could well infer that a person would not have those articles on or about him unless he was about to engage in unlawful activities of some nature or to disguise himself, although they are not directly related, so far as I know, to anything in here. I think that, basically, they have some slight materiality and relevancy, although I realize fully that they are prejudicial to the defendant.

MR. GREENSPAHN: Finally, your Honor, in one of the last exhibits there has been what has been described as an aerial bomb head. If, in fact, this is an aerial bomb head, there is nothing in this case involving an aerial bomb or showing any involvement of these people with this type of mechanism.

THE COURT: What do you say about that?

MR. BIERMAN: I would suggest the indictment says conspiracy to bomb and explode foreign ships, and it is not limited--first of all, it is a rather unusual item for one to have in his home, especially since it also connects up to Tony Prieto and Dr. Bosch, since the pin which Mr. Brodie has testified to is the safety pin was found in Prieto's home and the bomb cap and detonating and exploding device, whatever it was, was found in Dr. Bosch's house. It is an explosive device or a type of one. I admit there is nothing explosive about this in itself, but the presence of this in Dr. Bosch's home is further evidence of conspiracy.

MR. MORRIS: We have shown at least two methods used by these people in bombing ships: One was the 57 millimeter and the other was the bombs.

THE COURT: You couldn't call a 57 millimeter shelling a bombing.

MR. MORRIS: It is more or less a method of attacking ships. So this could be another method.

THE COURT: Well, what is the connection with this pin that you have been talking about now?

MR. BIERMAN: Captain Brodie testified that this pin fits in here as the safety device which prevents this from springing loose and this holds this from going down.

THE COURT: I know what his testimony is, but what is the connection between the pin and that object?

MR. BIERMAN: He testified this pin is for this head and the head was found at Dr. Bosch's apartment and the pin was found at Tony Prieto's apartment. We suggest that this ties them in together.

MR. GREENSPAHN: We admit that they knew each other before all these acts. If that is what you want to prove, we will stipulate with you. It ties them in together, but does it tie them

together in the commission of an unlawful act as specified in the indictment? That is the question.

MR. BIERMAN: We suggest a bomb head is not a mere token of friendship where one man keeps the pin and one keeps the bomb head.

MR. GREENSPAHN: I think it can be acknowledged that these pins, Judge, are fairly interchangeable, and that may not even have been the same pin for the same exhibit. The only reason that it bothers me is that it has a horrendous look to it and it just isn't related to this case in any way, and there has been no showing that it is. It looks like it could have an atomic warhead on it.

THE COURT: Gentlemen, I am inclined to grant the motion. I think certainly it is a suspicious circumstance, but whether it goes to proving anything in relation to these particular offenses I have my doubts. I am going to grant the motion.

MR. GREENSPAHN: Thank you.

THE CLERK: That is 73-E and 71-E.

MR. GREENSPAHN: That would conclude my objections to the evidence.

Your Honor, I would now respectfully in behalf of each of the named defendants move for a judgment of acquittal, starting with what I think is the most obvious entitlement to a judgment of acquittal. I would start with the defendant Andres Jorge Gonzalez Gonzalez. Your Honor, there is but one allegation in the indictment against Gonzalez, and that is on Page 4 of the indictment, Paragraph numbered 9 at the end of Count 1, one of the overt acts alleged by the Government as to the conspiracy alleged. There is the alleged allegation that on or about September 30, 1968, the defendant Andres Jorge Gonzalez Gonzalez attended a meeting of Cuban Power at the Jose Marti Building in Miami, Florida.

Your Honor, I respectfully submit that there is not one iota of evidence before this Court that Jorge Gonzalez Gonzalez attended the meeting of Cuban Power.

THE COURT: Isn't there a conversation in the tape recordings between Morales and Jorge Gonzalez?

MR. GREENSPAHN: No, sir, not to me.

THE COURT: My recollection is that

there is a tape recording--No. 2 or No. 3--that relates to a conversation between Morales and Jorge.

MR. GREENSPAHN: There is such a recording, but that conversation, sir, has nothing to do with the allegations of the overt acts as set forth on Page 4 of the indictment. That is a conversation which may in and of itself--

THE COURT: The Government, in order to have a prima facie case, does not have to prove all of the overt acts in the alleged conspiracy. They can only prove one. So long as they can prove an understanding or an agreement, tacit, implied or direct, between all of the defendants to participate in that matter--it is not essential--if they allege, we will say, ten overt acts, basically they only have to prove one, and it doesn't have to be but by one person, so far as there is further proof of some tacit or implied understanding.

MR. GREENSPAHN: I agree with that statement, but I submit, your Honor, there is nothing in this record that would tie in Gonzalez with any of the co-conspirators that are alleged or with any of the acts that are alleged.

THE COURT: Well, I am going¹ to deny your motion with respect to Gonzalez at this time.

MR. GREENSPAHN: I would respectfully submit that the same is true as to the defendant Benitez. There is, to my recollection, no material or relevant evidence tying him in or making him a part of the conspiracy as alleged.

THE COURT: What do you say?

MR. MORRIS: Your Honor, Morales testified that Benitez received dynamite along with some of the other defendants.

THE COURT: I don't recall that there has been too much testimony for me to accurately remember all of this, but upon that representation I will deny the motion. This, of course, is without any prejudice to your renewing your motion at such time as the defense rests. If it is necessary at that point, we can go into the testimony and have the court reporter read it.

MR. BIERMAN: We have it, your Honor.

MR. GREENSPAHN: Your Honor, with regard to the other named defendants, it is respectfully submitted that the Government has not met the

burden that is imposed upon it as to Count 2 of the indictment. There has been no showing by the Government of the alleged acts having been perpetrated with the intent to endanger the safety of the vessel or to injure the safety of the vessel as charged, as the statute requires.

I respectfully submit in that regard Count 2 should fall against the three named defendants therein.

THE COURT: Well, actually, there is testimony in the conversation and the tape recordings, for example, between Morales and other defendants which would permit the inference, at least, if not directly show that the original intent in firing that thing was to hit the bridge. There was conversation about the vessel having a fiberglass bridge, et cetera, and a great deal of the testimony was with respect to the law of gravity and pulling the weapon down and the flight of the shell down and causing it to hit the side of the vessel. And based upon that alone I think the Government has made a prima facie case. I will deny the motion.

MR. GREENSPAHN: Your Honor, if I may,

without belaboring the point because I think it is a matter of more than academic interest, but certainly the conversation in the tapes that relate to the bridge, as the Court has noted, to the fiberglass, as the Court has noted, are parts of the conversation that can be attributed to Mr. Morales. I do not recall any statement by any of these defendants as to those points. This is one of the reasons why I objected originally to the tapes because there are so many statements made and can be confused by Morales that are self-serving to Morales and the Government has not acquiesced in it and are not even responded to in many instances by the defendants.

The second point I want to make was this: As I understand the law--and I have submitted the law as I understand it in some of the charges that I have proposed to the Court for the jury--the showing must be that there is an intent to do more than damage to the machinery of the vessel or to the exterior of the vessel. The showing must be that the vessel as a whole is in danger. It is not just a question of a piece of apparatus or machinery being endangered, but the vessel must be made unseaworthy

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by reason of it.

THE COURT: I think the law is that actually the damage does not have to be actually accomplished. It is the intent to do it which is the crux of the offense.

For example, I think that had this rifle been fired at the ship and missed the ship completely--

MR. GREENSPAHN: It would have made no difference.

THE COURT: It would have made no difference. So long as the intent existed. And I cited that testimony about the bridge and everything because surely if that be given that interpretation it would be a rather serious thing.

As it so happened, of course, this shell was a fragmentation shell and didn't apparently do very much damage. But it is not the extent of the damage but the intent.

I'm sorry, but I can't go along with you in your argument.

MR. GREENSPAHN: I am sorry you are sorry, sir.

And finally, Judge, with regard to the allegations of the conspiracy itself in Count 1, your Honor, I submit that there is no showing that the defendant Aimee Miranda was a part of the conspiracy.

THE COURT: Well, it was at her home where the 57 millimeter recoilless rifle was put together and actually reworked so that it would be in operable firing condition. It was from her home that the clothes hanger was taken for the purpose of making the sight, and she certainly had full knowledge not necessarily that these people are going out to fire that gun that night but the purpose for which all this was being done; and, at least tacitly, in my opinion, she agreed to the thing. So far as I know, that is the only evidence that connects her with the thing other than her conversation with Morales, which would indicate a knowledge, a very close tie to Dr. Bosch and a knowledge of the activities that were going on. But that is the only evidence that I recall that relates to her directly.

MR. BIERMAN: There was something additional about explosives at the time that the dynamite was in doubt and they went to her house and

she had other explosives there--the C-4 and the Pentolite.

THE COURT: I didn't recall that, but I do recall the others.

MR. GREENSPAHN: That would conclude my argument on motion for a judgment of acquittal.

THE COURT: All right, sir.

MR. BIERMAN: Your Honor, before we proceed to the defendants' case, we have had prepared a transcript of Mr. Morales' testimony originally, and we would ask that the Court make a ruling on the exact limitation on the questions about the local bombing, and we would ask the Court to peruse Pages 115 to 119 where this originally came up.

MR. GREENSPAHN: While we are at it, as long as the Government has a copy, may I inquire as to whether or not I would be permitted to have a copy of it, for which I would be willing to pay, if necessary? I don't mean from the reporter. I mean from the Government.

THE COURT: Well, let us dispose of the first matter.

Upon consideration of the defendants'

motion for a judgment of acquittal, the Court taking the view most favorable to the Government, finds that a reasonably minded jury might accept the relevant evidence as adequate to support a conclusion of each of the defendants' guilt beyond a reasonable doubt, and the Court therefore denies the motions severally and collectively for a judgment of acquittal.

Now, what do you want to talk about about this testimony?

MR. BIERMAN: I want to discuss the limitations on Mr. Morales' criminal charge as it relates to a bombing locally and point out to the Court how this originally came up in the Court and the Court's earlier ruling. We objected to it then as anything more than the fact that he has a pending felony which could go to motivation. The details of this bombing are relevant, we would suggest.

MR. GREENSPAHN: Your Honor, the Court has now been called upon to express an opinion three times.

THE COURT: I will tell you, gentlemen, I am not going to do a thing about the testimony. It is in there now. If I tried to go through this thing

at this point and charged the jury to disregard certain parts of this evidence, I wouldn't be doing anything more than just fixing it more firmly in their minds, and I think that I would be prejudicing the defendants if I tried to do it, and I am just not going to do it. I am going to take the evidence as it is now.

MR. BIERMAN: I agree with you on that point. I am just discussing the future limitations on what detail Mr. Greenspahn can go into on that. I have been informed he subpoenaed the prosecutor for the State.

THE COURT: I have told Mr. Greenspahn that, so far as I am concerned, the evidence in the case, without controversy, shows that Mr. Morales was arrested and charged with a bombing; that he was put in jail on that charge; that his case has not been tried and it has been continued. There has been no trial nor any conclusion to that charge.

I am not interested, as I said before, in trying his guilt or innocence as to whether he did it or he didn't do it. But for the purposes of cross examination, particularly with respect to going to

whether or not he had been offered any promises or inducements or rewards for his testimony and his activities, I am of the opinion that much of it is admissible.

MR. BIERMAN: I agree.

THE COURT: Normally I would not permit a mere arrest to be introduced except under circumstances such as this. There would only have to be a conviction. But under the particular circumstances of this case, I have permitted that and I think it is proper. And I have told Mr. Greenspahn that he may argue to the jury any reasonable inference that he may want to from those facts, but I do not want him to go into the details of whether it was a bombing of a dry-cleaning store or an airline office or whether it was dynamite or Pentolite or whatever else was used or whether they found his fingerprints on it, et cetera. I am not interested in trying the case or going into the details. It is a local bombing, and that is all I think is before the Court.

I think I have ruled substantially the same way twice and I think everybody understands.

MR. GREENSPAHN: Exactly, sir.

Do you want a little more time, Mr. Greenspahn, before you get ready to start?

MR. GREENSPAHN: Yes, if possible. I've got a witness coming in between eleven and eleven-fifteen.

THE COURT: Well, we will be in recess. We will give you a few minutes to get yourself organized and to get started. If you will let me know when you are ready, we will proceed.

The Court will be in recess for a short period.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: You may proceed.

OPENING STATEMENT BY MR. GREENSPAHN

MR. GREENSPAHN: May it please the Court, ladies and gentlemen, the Government having rested its case, it now becomes incumbent upon the defendants to present their case to you. At this stage of the proceeding I am to make what is known as an opening statement to you. I assure you that my remarks at this moment will be extremely brief.

It will be the proof of the defendants, each and every of them, that the allegations made by the Government in the indictment which you have heard so much about are erroneous and that, in fact, the evidence that has been presented up to this point in these proceedings is incorrect. The evidence will speak for itself; so I will not go into a broad outline as to that evidence.

The defendants will, with particular regard to the individual portions of the indictment appertaining to each individual defendant that is named as a defendant--and, of course, certain of the defendants are not named in portions of the indictment whereas others are, show by the evidence that we will bring before you today and hopefully no later than tomorrow noon, that, among other things, the witness Mr. Sandridge, who testified and made a positive identification of Orlando Bosch as the individual who delivered the three telegrams that are now in evidence, was erroneous and intentional but erroneous. We will conclusively prove this to your satisfaction.

We will prove to you, with regard to the

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other elements of the indictment, that the matters and things that have been brought out before you up to this point are, in many regards, incorrect and, in many regards, erroneous. We ask only that you heed the evidence of the defendants as you have heeded the facts adduced by the Government.

Thank you.

Your Honor, we would proceed at this time.

THE COURT: Thank you, sir.

MR. GREENSPAHN: We will call as our first witness Mr. McEachern.

THEREUPON--

O. D. McEACHERN,
called as a witness on behalf of the Defendants,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: My name is O. D. McEachern,
M-c-E-a-c-h-e-r-n. My residence address is 13501
Northeast Miami Court. My occupation is telegraphy.
And my position is regional operations manager in the

State of Florida.

DIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Mr. McEachern, by whom are you employed and for how long have you been so employed?

A By the Western Union Telegraph Company for thirty-nine and a half years.

Q How long have you occupied your present position as regional manager?

A Since June, 1965.

Q As regional manager what are your specific duties, sir?

A My specific duties are to supervise operational matters throughout the State of Florida, and primarily in Miami, Florida. I am in charge of all of the Miami operations.

Q Do operations include the receiving of communications for transmittal by your company from individuals within the community?

A Yes, sir.

Q Mr. McEachern, have you had, pursuant to my direction, occasion to search the records of the Western Union Company office at 230 North Miami Avenue

McEachern - direct

Miami, Florida, for a particular document?

A Yes, I have.

Q Did you discover and make a determination that such a document did, in fact, exist?

A Yes, sir.

Q Are the records which you searched and the documents which you determined existed all kept within your control and supervision and are they accessible to you?

A Yes, sir.

Q Did you bring with you today, sir, the documents which I, by subpoena requested of you?

A I did.

Q Do you have them so that you can present them to me at this time?

A Yes, sir (Producing documents).

MR. GREENSPAHN: Mr. Clerk, will you mark these, please, as the Defendant Bosch Exhibit No. 2?

(Thereupon the instrument referred to was marked as Defendant Bosch Exhibit No. 2 for identification.)

McEachern - direct

BY MR. GREENSPAHN:

Q Sir, showing you Defendant's Exhibit No. 2 for identification, I would ask you if the white paper stapled onto the yellow paper was in this condition when you found them in your search of your files.

A Yes, it was.

Q Will you identify for us, first, the white paper and then the yellow paper?

A The white paper is the paper which has the addressee's name and address, and it contains the text of the message and a signature in Spanish, I believe, which I am not able to pronounce.

Q Will you identify the yellow paper to which the white paper is stapled?

A Company policy is that when we receive a telegram or cable on a piece of paper not on a telegraph form, we attach it to a telegraph sending blank. And that is what the yellow form is. It's a regular, standard blank. On this sending blank we have shown the number of words contained in this white paper, the text of the message, as well as certain

McEachern - direct
accounting information.

Q And are there indicated on the yellow form, by symbol or otherwise, indications as to the date and time that the white paper was presented for transmittal?

A Yes, sir. The paper shows--I might add in response to the previous question that the yellow paper also shows the sender's name and address and telephone number.

In response to your last question, the cable shows it was filed at our front counter at our main office at 230 North Miami Avenue on June 6, 1968, at 9:40 p.m.

Q What is the procedure that is employed by the person receiving that at the time of its filing to indicate the time and to indicate the date?

A We have a time stamp which is automatic at the front counter. And at the time of the receipt of the message, this impression is placed on the blank, and that is the time and date that I referred to--June 6, 1968 at 9:40 p.m.

Q Now, was the message that you have

indicated is contained on the white sheet, transferred in full to the yellow sheet?

A I'm sorry. I don't quite understand the question.

Q Is there anything other than the typewritten statement on the white sheet that was transferred over to the yellow sheet?

A Not in transmission, except the number of words. And then, for reference purposes, of course, we have the sender's name and address.

Q Will you indicate, please, the sender's name and address as your records reflect it.

A I believe it is Evelio, E-v-e-l-i-o. I'm not certain about the "L." It could be a "C." The surname is Bosch, B-o-s-c-h, and it shows the address as 1136 Southwest 9th Street, Miami, Florida. The telephone number is 377-3168.

Q Now, between the time that this was received at your office until the time that you removed it from your files in response to the subpoena that was served upon you, has this yellow sheet and the white sheet stapled onto it remained within the possession, control and custody of the Western Union

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McEachern - direct

Company?

A Yes, sir.

MR. GREENSPAHN: Your Honor, I would respectfully remove the admission of this exhibit.

THE COURT: All right, sir. Let counsel for the Government see it, please, sir.

MR. MORRIS: Your Honor, I would object to this. No relevancy has been shown to this case.

THE COURT: Let me see it, please.

I am going to overrule the objection at the present time. It will be admitted in evidence as the Defendant Bosch Exhibit No. 2.

(Thereupon the telegram referred to was received in evidence as Defendant Bosch Exhibit No. 2.)

MR. GREENSPAHN: You may inquire.

CROSS EXAMINATION

BY MR. BIERMAN:

Q Mr. McEachern, do you know, sir, whether it is a policy of your company to require identification when people give their names?

A It is not a policy.

McEachern - cross

THE COURT: Except when you are receiving money.

THE WITNESS: Yes, sir.

BY MR. BIERMAN:

Q Then you do not have personal knowledge as to who actually presented this telegram?

A No, I do not.

Q Could you calculate for me the cost of this telegram?

A I'm sorry. I don't have the rate sheets. I can tell you--it shows on the face of it \$14.16, and I would presume that is a correct rating.

Q Whether or not that would be a correct rate, that would be a rate which you charged the customer?

A Yes, sir.

Q Do you recognize the writing here as being one of your clerks, or do you know?

A No, sir, I don't recognize it.

Q Is it the policy to request the name of the sender in each instance when a telegram is sent?

McEachern - cross

A Yes, sir.

Q Showing you, sir, Government's Exhibits 1, 2 and 3, do you have any idea as to why the name of the sender would not be reflected on these?

A No, sir, I don't, except in some cases the sender refuses it and, of course, when they do we have no recourse. I can't say that they did refuse it or not. It could be--

Q So then--

A It could be that the clerk may possibly have not asked for it.

Q But then, sir, whether or not a sender's name appears on a telegram is pretty much at his option?

A Yes, it is. It is our policy to ask for it, and it is his option as to whether he gives it or not.

MR. BIERMAN: I have nothing further.

MR. GREENSPAHN: Thank you, Mr. McEachern. You may step down.

THE COURT: You may be excused.

(Witness excused)

Bosch - direct

THEREUPON--

EVELIO BOSCH,

called as a witness on behalf of the Defendants,
having been first duly sworn, testified through the
interpreter Rafael Campi as follows:

THE CLERK: Please state your full
name, address and occupation.

THE WITNESS: Evelio Bosch, B-o-s-c-h,
1136 Southwest 9th Street. I work on the docks.

MR. GREENSPAHN: Your Honor, the
Government has permitted me to use Mr. Campi as an
interpreter in this instance.

Mr. Campi, would you please interpret
in the first person throughout the course of this
testimony?

THE INTERPRETER: Yes, sir.

DIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Bosch, are you personally acquainted
with any of the nine defendants in this case who sit
at the wall on my right?

A No, sir.

Bosch - direct

Q When did you come to the United States?

A September 3, 1962.

Q From what place did you come, sir?

A From Regla.

Q Where is that?

A In the Province of Havana.

Q What country, sir?

A Cuba.

Q How long have you resided in Miami, Dade County, Florida?

A Ever since, with the exception of six months I was in New York.

Q What kind of work do you do, Mr. Bosch?

A I sit on the docks, and in New York I worked in the Berlitz School.

Q What kind of work do you do on the docks?

A Checker of loading and unloading.

Q Are you in any way related, either by marriage or otherwise, to the defendant Orlando Bosch Avila?

A. In no way.

Q. Mr. Bosch, I show you Defendants' Exhibit No. 2 and ask you if you can identify the white portion of it.

A. I put that telegram.

Q. To whom was the telegram addressed?

A. Sara Vazquez.

Q. At what place, sir?

A. In Regla.

Q. In Cuba?

A. Yes.

Q. On what date did you prepare that white slip?

A. On June 6.

Q. Was it this year?

A. Yes, this year. She came from Cuba afterwards.

Q. At what place did you prepare that white slip?

A. In my home.

Q. Did you personally do the typewriting that is reflected on the face of it?

A. I did. I have a typewriter at home.

Q. Do you still have the typewriter?

Bosch - direct

A Yes, I still have it, yes.

Q Did you take that white slip to any place outside of your home on June 6th?

A From my home to the Western Union only.

Q Was that the Western Union on North Miami Avenue?

A The one on North Miami Avenue.

Q Mr. Bosch, at approximately what time did you arrive at the Western Union office?

A About ten to ten-thirty at night. From nine-thirty to quarter to ten, approximately.

Q When you arrived at the Western Union Station, were there other people present?

A Yes, there were, many.

Q Did you present the white instrument that is a part of Exhibit No. 2 to any person employed at Western Union?

A Yes, I presented that. A copy of this writing I sent to a person in New Jersey after they came from Cuba. And it was stapled at the Western Union afterwards.

Q Did you hand that white piece of paper

Bosch - direct

to anybody at the Western Union Station?

A Yes, sir, I did.

Q What observations, if any, did you make of the person to whom you handed that white piece of paper?

A The only observations that I had was I had to send this to Cuba and I paid for it.

Q Can you in any way recall and describe the man to whom you handed that white instrument?

A If I see him, yes.

Q Can you recall sufficiently well enough to describe to us verbally any characteristics of his?

A He is a little shorter than I, he uses glasses. And from what I could see--because he was sitting down--he had some physical defect in his shoulders. He is shorter than I.

MR. BIERMAN: We will stipulate that is a description of Mr. Sandridge and then we will move to strike the entire line of testimony as irrelevant.

MR. GREENSPAHN: If the Government stipulates that it was Mr. Sandridge, that's fine. That is all I wanted to prove by that point.

Bosch - direct

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q Mr. Bosch, how were you dressed on that evening?

A Really I cannot remember, but I believe I was wearing a white shirt, because it was summer, and in the summer I wear white shirts.

Q Were you wearing glasses at the time?

A I always use glasses.

Q Which glasses were you wearing at that time?

A I have to use two glasses. These are for writing and reading; and the other glasses are to see far. Otherwise I cannot read or write.

Q Were you wearing this pair of glasses that I hold--the clear glasses with the black frames--at that time?

A Yes, because those are the ones that I use for writing.

MR. BIERMAN: Your Honor, for the record, if these glasses are going to be discussed and I suppose they have some relevancy, they should be

Bosch - direct

marked.

MR. GREENSPAHN: I cannot ask the man to give up his glasses.

THE COURT: I do not think they have to be marked. I think that the testimony is clear enough without the glasses being marked or put in evidence. Proceed.

BY MR. GREENSPAHN:

Q How old are you, sir?

A Fifty-six years.

Q What is your height, sir?

A I don't know.

Q What is your weight, sir?

A 190 pounds.

Q Do you recall whether or not you made payment to the clerk at the Western Union Station?

A Yes.

Q What was the amount of the charge that was charged for the telegram?

A \$14.55 or \$14.45. It fluctuates between those amounts.

Q In what manner did you make the payment?

Bosch - direct

A A \$20 bill, and I received \$5 and some cents change.

Q Was that payment made to the clerk that you have identified?

A To the clerk in the Western Union.

Q In what language is the message on the white sheet?

THE COURT: It is in Spanish. Let's go on.

MR. GREENSPAHN: I have no further questions. You may inquire.

A It's in Spanish.

CROSS EXAMINATION

BY MR. BIERMAN:

Q Is that message addressed to any head of a state?

MR. GREENSPAHN: Objection. That is obviously not in cross of anything on direct.

THE COURT: All right, sir. Ask him who the addressee is.

BY MR. BIERMAN:

Q Who is the addressee?

Bosch - cross

A To the person I know from Cuba. The wife of my godfather. I did not send it to him because he was in agriculture, according to the letter that she sent to me.

MR. BIERMAN: I have no further questions.

MR. GREENSPAHN: No redirect.

THE COURT: May this witness be excused?

MR. BIERMAN: I think we had best keep him around unless our motion is granted.

THE COURT: All right, sir.

Tell Mr. Bosch that he may step down, but he will have to remain subject to recall.

(Witness excused)

MR. BIERMAN: We would like to make a motion.

THE COURT: Ladies and gentlemen, we will recess until one-thirty. So you may be excused until one-thirty. The same instructions, of course, are and will be applicable. So you may retire.

(Thereupon the jury was excused,
pursuant to which the following
proceedings were had out of the
presence of the jury:)

THE COURT: What is the Government's
motion?

MR. BIERMAN: I move to strike this
morning's defense testimony as not being relevant to
this case. If it is an attempt to show a faulty
identification, it is not a proper manner to bring in
another man. And so far as this witness testified,
he could not identify any of the defendants and he
sent the telegram. It did not relate to this case.
And he gave his name and address on the back, which
is optional. Unless defense counsel ties him in in
some way, it is not relevant to this case.

MR. GREENSPAHN: It is most material
to the identification of Mr. Sandridge. He is the
only identification witness. He used as a criterion
along with the Spanish, he mentioned the man as
wearing glasses. The weight and height and all these
things go toward that. And this happened within forty
minutes of the other telegram.

MR. BIERMAN: That is still not the proper way to attack an identification.

First of all, he said it was an exact amount. This telegram is not an exact amount. He said it was on a Western Union form and typed. This was not on a Western Union form. And he said there were three messages brought by the same person. It is just not relevant.

MR. GREENSPAHN: It is for the jury to determine.

THE COURT: Well, I think that it might have some relevancy and some materiality. Insofar as the identification is concerned, although as I recall the witness's testimony he positively identified Dr. Bosch as the one who sent these three messages and there were three messages sent. However, for whatever value it may have, I am going to deny the motion and permit it to remain in there. If the Government wishes to pursue the matter further on rebuttal, it may.

I am not going to comment on the evidence, but in view of the closeness of the time and the similarity of the verbal description, although

coupled with it was a positive identification of Dr. Bosch, I am going to permit it to stay for whatever value it may have. So I am going to deny the Government's motion.

All right, gentlemen. We will be in recess until one-thirty.

(Thereupon at 11:48 a.m., the hearing was recessed to reconvene at 1:30 o'clock p.m., pursuant to which the jury returned to the jury box and the following proceedings were had:)

THE COURT: All right, Mr. Greenspahn, you may proceed.

MR. GREENSPAHN: Your Honor, we would call the defendant Jose Diaz Morejon.

THEREUPON--

JOSE DIAZ MOREJON,
a Defendant herein, having first been duly sworn, testified through the Interpreter Linda Maestri as follows:

THE CLERK: Please state your full name, address and occupation.

Morejon - direct

THE WITNESS: Jose Diaz Morejon, 625
Southwest 5th Street, Apartment 2. Mechanic.

DIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Morejon, when did you come to the
United States of America?

A I arrived the 3rd of November, 1963.

Q From what place did you come?

A Cuba.

Q How old are you?

A Twenty-six years old.

Q Are you married?

A Yes, I am.

Q Do you have any children?

A Yes.

Q Will you tell us the names and ages of
your child or your children?

MR. BIERMAN: Your Honor, I don't see
any need to go through family background on these
witnesses. I don't see what relevance it serves.

THE COURT: I don't know that it has
any particular relevance, but I will permit the witness

Morejon - direct

to answer the question.

BY MR. GREENSPAHN:

Q Answer the question, please.

A My wife's name is Tania Perunada.

Q And your child or children?

A I have one child. His name is Jose Manuel. He is one month old.

Q Are you personally acquainted with one Ricardo Morales Navarette?

A Yes, I do know him.

Q When and at what place did you and Ricardo Morales first become so acquainted?

A I met Mr. Ricardo Morales at a place called the Esquina de Tejas at 12th Avenue and 1st Street and I met him there with Dr. Bosch.

Q Was there anybody else present at that time?

A No.

Q Please relate to us the conversation, if any, that you had with Mr. Morales at that time and at that place.

A He came to me to present the plan about

Morejon - direct

blowing up the Russian Embassy and we talked about that.

Q Approximately when was that, if you recall?

A I don't remember exactly.

Q What specifically did he say to you and what did you say to him?

A He talked to me about the plan, and I mentioned that I was not in agreement with that plan. We discussed several points, and I mentioned that I was not interested in that.

Q When was the next time that you had occasion to meet with Ricardo Morales?

A I met Ricardo Morales again in his home.

Q What time was it and what date?

A The end of August. It was at night.

Q Who else was present at that time?

A Dr. Orlando Bosch.

Q Was anybody else present?

A Morales.

Q What did Morales say to you and what

Morejon - direct

did you say to him?

A At that moment he turned over to me a box of dynamite.

Q I show you Government's Exhibit 19 and ask you if you can recognize the exhibit as being similar to the box that was at that time given you by Morales.

A It's very similar to this one.

Q How many such boxes did you at that time receive?

A Just one box.

Q What was said by you and what was replied by him during the course of that conversation?

A He just turned over that box; and we did not have a long conversation.

Q What did you do with that box when you received it?

A We put it into our car that we were using at that moment, and we took it over to the home of the sister of Dr. Bosch.

Q Do you recall what the make or model or the year or the color of the car that you were using

Morejon - direct

at that time was?

A It was a 1966 Oldsmobile, model Starfire.

Q What, if anything, did you do when you arrived at Dr. Bosch's sister's house?

A We left the box there.

Q Subsequent to that time did you have occasion again to meet with Ricardo Morales?

A At another time Dr. Bosch and I, we got together again. We went to 1150 Southwest 1st Street, and there he turned us over another box.

Q Who was present at that time?

THE COURT: Who is "he"?

THE WITNESS: Navarette.

BY MR. GREENSPAHN:

Q How many boxes did you at that time receive?

A Just one box.

Q Did that resemble the exhibit that I showed you a few moments ago?

A Yes.

Q After receiving that box what, if

20-1

Morejon - direct

anything, did you do?

A At that time we put it into the car again that Orlando Bosch had and we took it over to his sister's home.

Q Was that the same car that you had previously had?

A No. It was a '57 white Chevy.

Q Did you have occasion subsequent to that time to again meet with Ricardo Morales?

A Yes.

Q Will you tell us where that meeting took place and approximately when it was?

A The next occasion was on September 15 that we met.

Q At what place?

A 16th Avenue and 2nd Street, where Aimee Miranda lives.

Q At what time of the day or night did you present yourself at Aimee Miranda's apartment?

A It was around eight o'clock at night, and I was accompanied by Barbaro Balan.

Q Had you ever been to Aimee Miranda's

Morejon - direct
apartment before that date?

A Yes; on several occasions.

Q What would your purpose have been for having gone on those several prior occasions?

A Aimee Miranda belongs to a Cuban organization to which I belong, too.

Q What is the name of that organization?

A M.I.R.R.

Q What does that stand for, if anything?

A Insurrectional Movement Revolution and Recuperation.

Q Who is the leader of that organization, the M.I.R.R.?

A Dr. Orlando Bosch.

Q What are the objectives of that organization?

A To fight against Communism and against Castro.

Q Approximately how many times would you estimate you had been at Aimee Miranda's apartment before September 15?

A I don't recall exactly but several

Morejon - direct

times.

Q On the evening of September 15 when you arrived with Barbaro Balan, was there anybody else other than Aimee Miranda present?

A No, nobody else.

Q What was your purpose on the evening of September 15 in going to Aimee Miranda's apartment?

A In the afternoon when I met with Dr. Bosch, Dr. Bosch met with me that afternoon at the home of Barbaro Balan, because we had to go in the evening to check one of the cannons.

Q Did you know the type of weapon that was referred to when "cannon" was referred to?

A He told me it was a 57 recoilless.

Q When you arrived at Miranda's house that evening what, if anything, did you do?

A Barbaro and myself, we got the cannon out from below the bed where we had it hidden. We took it apart and we started checking it.

Q Mr. Morejon, I show to you Government's Exhibit No. 8 and ask you if you can identify it. You

Morejon - direct

can come off the witness stand and look at it, if you wish.

A It seems it's very similar.

Q Do you notice any differences between Government's Exhibit No. 8 and the instrument that you had observed at Aimee Miranda's house?

A Yes. There is something missing because it had--

Q Go ahead.

A Can I touch it?

Q Yes.

A There is something missing on the bottom.

Q Can you tell us what, if you can recall, the object was that is now missing?

A An adjustable piece to open the shutter.

Q Put that down over there and take your seat again.

With regard to the 57 millimeter that you have talked about at Aimee Miranda's house, what did you do?

Morejon - direct

A We started cleaning it up and we checked the shutter and we started cleaning it up and checking it.

Q When you say "we," who are you referring to?

A Barbaro Balan and myself.

Q Did Aimee Miranda remain in her apartment while you were doing this?

A Yes, she was in the apartment. She was lying down. She was reading a book, but she had nothing to do with this.

Q How long did you remain engage in your work on the 57 millimeter?

A About an hour, because we found something wrong with it.

Q What was wrong with it?

A It didn't shoot.

Q Then what, if anything, occurred?

A After we were there for an hour, Dr. Bosch arrived,

Q What conversation, if any, did you have with Dr. Bosch at that time?

Morejon - direct

A I told him what was wrong with the cannon, and he also tried to check it out with us.

Q At that time--that is, at the time of your conversation with Dr. Bosch about the cannon--did you know the purpose, if any there was, for which that cannon was intended to be used?

A Yes.

Q How had you become aware of it?

A Dr. Orlando Bosch had told us about it that afternoon.

Q Will you recite to us the nature of that conversation, what you said and what was said to you by Dr. Bosch?

A He talked to me about Ernesto--that Mr. Ernesto planned to fire on the Polish ship with the cannon, in order to do some propaganda.

Q Was there any further conversation at that time about the use of that type of cannon or the intended use?

A Yes. He said that Ernesto wanted Barbaro Balan and me to accompany him.

Q Mr. Morejon, had you, before September

Morejon - direct

15, 1968, personally observed and known the man to whom you refer as Ernesto?

A Yes. I had seen him on one occasion together with Dr. Bosch.

Q Will you tell us when that occasion was?

A About the end of August.

Q At what place?

A I don't remember exactly, but it was at a motel on Route 1.

Q At that time did you have an opportunity to observe the man that you referred to as Ernesto?

A Do you mean his physical appearance?

Q Yes.

A Yes.

Q Describe him to us, please.

A He was about five four, he has brown hair, strong. And that's all.

Q Going back to the night of September 15, when Dr. Bosch came in, did he assist you with the repair that you were doing on the cannon?

Morejon - direct

A Yes.

Q For how long did you and Balan and Dr. Bosch continue to work on the cannon after he came in?

A I don't understand the question.

Q After Dr. Bosch came in, for how long a period of time did you and he and Balan continue to work on the cannon?

A About a half-hour to forty-five minutes.

Q At the end of the half-hour or forty-five minutes, had the cannon been repaired?

A No. It continued to not function.

Q What, if anything, was then said by you to Dr. Bosch or by Dr. Bosch to you?

A The only solution, Dr. Bosch told me, was to tell Ricardo Navarette, who was an expert, and maybe he could repair the cannon.

Q Did somebody go to find Mr. Morales?

A Orlando Bosch went to get him.

Q Did he return with Morales?

A Yes. He came right back.

Morejon - direct

Q What conversation took place between Morales, yourself and Dr. Bosch, if any, when Morales returned?

A He tried to repair the cannon.

Q Did he use instruments or tools?

A He brought some tools.

Q Then what, if anything, happened?

A He repaired it at that moment. He said that that was about the only thing he can do. He tried to repair it at that moment, which was the only thing that he can do, and he prepared to fire only one shot.

Q Did he tell you it was only capable of firing one shot?

A Yes, one shot.

Q What, if anything, did you then do?

A I was not the only one to decide. We all decided together, and we agreed that it was okay.

Q When you say "we all," would you clarify it by telling us who you are referring to?

A Dr. Orlando Bosch, Barbaro Balan and

Morejon - direct

myself.

Q Then what, if anything, happened?

A At that moment we agreed and we put on the top a rifle sight.

Q A sight?

A A sight, because the cannon lacked that.

Q Then what, if anything, did you do?

A Then Ricardo put the sight on the cannon and we put a spring from the mouth of the cannon, and then we started preparing it.

Q Who put the sight on the cannon?

A Morales.

Q Then what did you do?

A The four of us left--Dr. Bosch and the other gentleman left, and I left with Barbaro Balan.

Q You say the other gentleman. Is that Morales?

A Yes; Morales.

Q Mr. Morejon, when you refer to people, please, for the sake of the record, refer to them by name, not as "the other gentleman."

Morejon - direct

A Okay.

Q Now, where did you and Balan go?

A We went to 8th Street to have coffee.

Q By what manner did you go?

A We went in the car of Barbaro Balan.

Q What kind of car was that?

A A '59 Chevy.

Q To what place did you go for coffee,
if you remember?

A It is a cafeteria that is near the
Tower Movie Theater on 8th Street.

Q What, if anything, then occurred?

A Barbaro Balan and myself returned at
11:00 p.m. to the apartment of Miranda.

Q When you returned to that apartment,
was there anyone in the apartment?

A No; just Aimee Miranda.

Q What, if anything, did you and Balan
do when you returned to that apartment?

A We picked up the cannon and we put it
in the car of Balan.

Q Were you still in the same automobile

Morejon - direct
that you described a few moments ago?

A Yes.

Q Then what, if anything, did you do?

A We went to 36th Street and 2nd Avenue
to a restaurant, the Mayflower Restaurant.

Q What was your purpose in going there?

A We had to meet Ernesto there.

MR. BIERMAN: Your Honor, there seems
to be some problem with the interpretation. So I
would like to go back and make sure the record
probably reflects what was said by the witness.

THE WITNESS: All right, sir.

BY MR. GREENSPAHN:

Q At the time that you returned to
Aimee Miranda's house with Barbaro Balan, what time
was that, sir?

A 11:30 p.m.

Q You described an automobile before as
an Oldsmobile. Do you recall the automobile that I
am referring to?

A Yes.

Q If so, what year was that?

Morejon - direct

A Could you please repeat the question?
I don't understand it.

THE COURT: Let us get it clear. He
is talking about his own automobile. So ask him.

BY MR. GREENSPAHN:

Q What year is the Oldsmobile that you
owned at that time?

A A '62 Starfire.

MR. GREENSPAHN: That corrects the
record now, your Honor.

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q Now, at the Mayflower Restaurant what,
if anything, occurred?

A We went there with Ernesto, Barbaro
Balan and myself, and I introduced Barbaro Balan to
Ernesto.

Q Did you recognize Ernesto as being
the same individual you had previously seen and
identified as Ernesto?

A Yes.

Q What conversation, if any, then ensued

Morejon - direct
between yourself, Balan and Ernesto?

A We talked about what we were going to do with the cannon, about firing upon the ship, the POLANICA, and then we took the cannon and we put it into the car.

Q What was the nature of the discussion as to the manner and method of firing, if any, upon the ship that you referred to?

A He said he was going to fire upon the ship.

Q Who is "he"?

A Ernesto.

Q Mr. Morejon, had you seen the shell that was to be fired from that 57 millimeter rifle that you described?

A Yes. It was in the home of Aimee Miranda.

Q What, if anything, did you know about that particular shell?

A We had a conversation where Morales told me that it was a shell that was for practice only and it was not going to do any damage.

Morejon - direct

Q Going back to your leaving the Mayflower Restaurant, when you left the Mayflower Restaurant, by what method of transportation did you leave?

A A green '57 Chevrolet that Ernesto had brought.

Q Who was driving the car?

A Barbaro Balan.

Q Who was sitting in the front seat?

A I was.

Q Where was Ernesto seated?

A Ernesto was sitting in the back together with the cannon.

Q To what place, if you recall, did you go?

A We went to the docks off the MacArthur Causeway.

Q Do you know the route of travel you took, if you remember?

A We went to the other way, through 36th Street to Biscayne Boulevard and then we got onto the MacArthur Causeway.

Morejon - direct

Q To what point did you go on or at the MacArthur Causeway?

A We got to about halfway of the MacArthur Causeway and we stopped at the light, and we turned back again towards Miami.

Q Did you ultimately come to a complete stop at a place on the causeway?

A Yes. We stopped right in front of the POLANICA.

Q On the trip from the Mayflower to the point at which you stopped on the MacArthur Causeway, was there any conversation between yourself, Ernesto and Balan?

A We started going over the participation of our work.

Q When you got to the place that you stopped on the causeway, what, if anything, did you do?

A Barbaro Balan and myself, we got out of the car and we started fishing.

Q What were you using as equipment for fishing?

Morejon - direct

A Just strings.

Q What did Ernesto do, if anything?

A Ernesto stayed in the back seat, and he went over the cannon to check it.

Q Did you observe Ernesto getting out of that automobile at the MacArthur Causeway?

A At that moment when we were fishing, he stayed in the car.

Q Then what, if anything, occurred?

A He got out of the car, he took the cannon, he put it in the middle of the street, and he told us he was going to fire from there, and he told us if any traffic was coming, to let him know.

MR. GREENSPAHN: Your Honor, there seems to be a question as to the proper interpretation. So let me, if I may, ask that question again and get the answer again?

THE COURT: All right, sir.

BY MR. GREENSPAHN:

Q What did you observe, if anything, with regard to Ernesto removing himself and the cannon from the automobile?

Morejon - direct

A He prepared the cannon and he put the shell there.

Q Was that in the automobile?

A Yes.

Q Now, what did you observe with regard to him getting out of the automobile? What did he do if you saw it?

A I don't know exactly what he was doing, because I was fishing--Barbaro Balan and myself.

Q To what place, if you know, did he go?

A He went to the center, to the middle of the road where there is some grass that divides the road.

Q For how long a period of time did you remain at the place that you were fishing?

A When he asked us to let him know if any traffic was coming. Then at that time we stopped fishing.

Q For how long a period of time had you been there until that time?

A Do yu mean fishing?

Q Yes, fishing.

Morejon - direct

A About fifteen or twenty minutes.

Q Then what happened?

A Do you mean after he moved the cannon to the middle of the road?

Q Yes.

A We started watching for the traffic about ten or fifteen minutes.

Q Then what, if anything, happened?

A He fired.

Q Who is "he"?

A Ernesto.

Q Then what did you hear or see?

A I heard a very loud sound.

Q Then what did you do?

A At that moment I saw Ernesto running with the cannon in his arms and then he threw it into the water and we got into the car.

Q Then what did you do?

A I went into the car, I was in the front seat. Barbaro Balan was driving, and Ernesto sat in the back seat.

Q Where did you go, if you recall?

Morejon - direct

A We went to the same place that we were before--the Mayflower Restaurant place at 36th Street and 2nd Avenue.

Q Then what happened?

A Barbaro Balan and myself, we went into the car that we were using before, and Ernesto then took his car and he left, also.

Q That was the last contact you had with Ernesto that night?

A Yes.

Q Have you, subsequent to that time, since that time, seen Ernesto?

A No.

Q In the early part of 1968, were you employed? Did you do any kind of work?

A Yes. I was working in 1968, until February, at Pepsi-Cola.

Q After that had you done any work in and about Miami?

A Yes. I dedicated my time to being a mechanic.

Q I show you Government's Exhibit No. 71-A

Morejon - direct

and ask you if you have previously seen it. You can take it out of that container, if you wish. See if you can recognize it and tell me what it is.

A Yes. This is a paper that I had in my home, which was related to the ports in Miami.

Q When was the first time that you saw that particular piece of paper?

A About the beginning of the year, around May.

Q At what place had you first seen that piece of paper?

A I saw it in an advertising agency in the Jose Marti Building.

Q What was the name, if you recall, of the advertising agency?

A Xigulop. I don't know how to pronounce it.

Q How did you come to take possession of that particular piece of paper?

A I took the paper to see if I could find something of interest to me in that paper.

Q What did you anticipate might be of

Morejon - direct

interest to you in that piece of paper?

A I was going to see if one of the ships was in one of the ports, a ship that I had worked on before, and if they were going to load.

Q What was your interest?

A To apply for a job because I was not working at that time.

Q I call your attention to the inked handwritten words on the face of that paper. Do you see the various words that I am referring to?

A Yes.

Q Is that your handwriting?

A No.

Q Did you affix any of the marks that are on this paper to this piece of paper?

A No.

Q Mr. Morejon, before September 15, 1968, had you ever had any experience with a 57 millimeter recoilless rifle?

A No.

Q Had you ever had any training of any sort in the use of such an instrument?

Morejon - direct

A No.

MR. GREENSPAHN: Your Honor, these packages that are a composite as Exhibit 71-C are sealed with a quantity of Scotch tape. May I break these?

THE COURT: Yes, you may.

THE CLERK: That is only to hold them together. They weren't all together when they were first turned in as an exhibit.

MR. GREENSPAHN: Your Honor, may I have a minute?

THE COURT: Yes, sir.

MR. GREENSPAHN: What I am looking for is the exhibit that was identified as having been taken from Mr. Morejon's house, the detonator. And I am not sure. Is it Exhibit 81?

BY MR. GREENSPAHN:

Q Mr. Morejon, I show you the larger of the packages that is held together as composite Exhibit 71-C. I ask you if you will tell us what this is, if you know. Do you know what the contents of these two boxes are? Have you ever before observed any

Morejon - direct
of the things that are in those boxes?

A They could be detonators. All I see is something aluminum. And then they have been shot already, I think.

Q Those look like the remnants or the pieces of a detonator that you may have had in your house?

A They were complete, the ones I had.

Q Will you explain to us assembled here in this courtroom why you had the detonators in your home?

A We used these detonators to free Cuba, and I have them in case anybody needed them.

Q Is this, to your knowledge, a common practice within the exile Cuban colony of Miami?

MR. BIERMAN: I am going to object to the question.

THE COURT: I will sustain the objection.
BY MR. GREENSPAHN:

Q Going back to that piece of paper you looked at a few moments ago, what was the name of the ship that you had previously worked on at the Port of

Morejon - direct

Miami?

A I didn't work in the Port of Miami.

I worked in another port.

Q What was the name of the last ship you worked on?

A The name of it was the ANNA PATRICIA.

Q Did you have occasion subsequent to May 13th to attempt to determine the whereabouts of that vessel?

A I had news that it was loading in the Port of Miami, docked at Miami.

Q Did you attempt to find work on that vessel?

A I didn't get to go because I didn't find it on the paper. So I didn't go.

Q Did you ever, subsequent to May 13, again become familiar with or see a paper such as the one that I showed you a few moments ago?

A I have seen several.

Q Finally, on how many occasions did you meet with Mr. Ricardo Morales for the purpose of receiving the type of box that you have described?

Morejon - direct

A On two occasions.

Q And the dates as you recall them were when?

A The first date was at the end of June and the second date was about mid-August.

MR. GREENSPAHN: Thank you. Your witness.

CROSS EXAMINATION

BY MR. BIERMAN:

Q What relationship, sir, did you and Dr. Bosch have with this mysterious Ernesto?

A I had very little relationship with him.

Q Did you have enough relationship with him, sir, to bring with you this recoilless rifle and meet him at a restaurant and go to MacArthur Causeway?

A Dr. Orlando Bosch had it.

Q Who directed you then, sir, to meet with this man you call Ernesto?

A Dr. Orlando Bosch.

Q Was Dr. Bosch your leader? Did you follow his instructions?

Morejon - cross

A Yes.

Q What position did you hold, sir, in the M.I.R.R.?

A I am a member.

Q You previously received and followed instructions from Dr. Bosch?

A Previous to what?

Q Previous to the occasion that you went to MacArthur Causeway with the recoilless rifle?

A Yes.

Q What were you to do with the boxes of dynamite that you received?

A Dr. Orlando Bosch had the idea of sending these to Cuba.

Q Did you, personally, ever aid in sending them to any place outside the City of Miami?

A No.

Q What did you believe was contained in these boxes at the time that you personally took them?

A Dynamite.

Q You had no difficulty reading the English word "dynamite" written on the box, is that

Morejon - cross

right?

A It is very similar in Spanish.

Q And in your work, sir, as a mechanic and sometimes as a longshoreman and as an employee of Pepsi-Cola, did you have any dealings with dynamite?

A No.

Q Is it your testimony that the only two times that you saw dynamite was once at the 1150 Building and one other time in August, is that right?

A Yes.

Q And you simply took it to Dr. Bosch's sister's house?

A Yes.

Q That was the last time you saw it?

A Saw what?

Q The dynamite?

A Oh, yes.

Q Did you ever see any of these individual sticks again?

A No.

Q Did you ever see a canister such as this one which is marked Government's Exhibit No. 45?

Morejon - cross

A No.

Q Did you ever prepare anything other than this 57 millimeter recoilless rifle?

A No.

MR. GREENSPAHN: I object to the question because it is an ambiguous question. At what time and for what purpose is counsel's question directed? Does he mean did he ever prepare chicken for supper or dinner?

THE COURT: I will agree it is not as clearly stated as it might be. I will ask counsel to rephrase it.

BY MR. BIERMAN:

Q Did you ever prepare any other explosives or apparatus with Dr. Bosch?

A No.

Q What is Ernesto's last name?

A I don't know. I only know him by "Ernesto."

Q Did you attend the press conference that allegedly had Ernesto there under a black hood?

A No.

Morejon - cross

Q Did you attend the press conference when Dr. Bosch accepted the designation as political delegate of Cuban Power?

A Yes.

Q Had you seen Ernesto right before that?

A Yes. I saw him at the address I mentioned before with Orlando Bosch where he introduced me to him.

Q Where is he now?

A Who?

Q Ernesto.

A I don't know.

Q And this M.I.R.R., sir, that you are a member of, is this the same M.I.R.R. that prepared an outline of its goals and said that the second goal was a tax on vessels trading with Communist Cuba, to make insurance policies impracticable and thus enforce a complete and effective blockade of the island?

MR. GREENSPAHN: Objection and move to strike the question, your Honor. There has been no

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Morejon - cross

foundation laid for it. It hasn't been established that he is one of the principals or officers in the organization or has any knowledge of the instrument to which he is referring.

THE COURT: I will sustain the objection to the question as it is phrased.

BY MR. BIERMAN:

Q Take a look at Government's Exhibit No. 75--

MR. GREENSPAHN: As well as the fact, your Honor, that what Mr. Bierman has gratuitously read now is not a proper translation of the instrument which it purports to translate, I am told.

MR. BIERMAN: I think we have it in Spanish, too.

It may not be a proper translation, but it was recovered in Dr. Bosch's house. So we don't know--

MR. GREENSPAHN: Your Honor has sustained the objection.

MR. BIERMAN: Now I am asking him to examine this exhibit.

Morejon - cross

THE COURT: You can ask him to examine it and ask him if he knows anything about it or what it is.

BY MR. BIERMAN:

Q Will you examine this, please?

A It's in English and I don't understand what is written here.

Q Do you recognize these signatures on the bottom?

A I have seen before the signature of Orlando Bosch, but I don't know exactly if this is his, also.

Q What is Dr. Bosch's position with the M.I.R.R.?

A He is the coordinator.

Q What relationship did the M.I.R.R. have with this man that you met two times--Ernesto?

A When you mention "this man," who do you mean?

Q Ernesto, or who you say is Ernesto.

A With what other person do you mention that he has a relation?

Morejon - cross

Q M.I.R.R.

A No, I don't know.

Q How close were you to this cannon when it fired?

A I don't know exactly in feet, but it was a distance. What the road of the MacArthur Causeway is.

Q Did the sound bother your ears at the time?

A Yes, somewhat.

Q What did it sound like?

A Very strong.

Q Can you describe the sound?

A No, I cannot. Like an explosion, but I couldn't describe it.

Q Did you observe the Coast Guard boat cruising next to the POLANICA?

A From where I was, I couldn't see that far.

Q You couldn't see?

A No.

Q Do you recall, sir, having a conversation

Morejon - cross

with Ricardo Morales Navarette in which you discussed with him the fact that the Coast Guard boats were staying right there next to the POLANICA?

A Yes, I do remember having that conversation with Ricardo Morales.

Q Do you recall telling him that the Coast Guard boats were moving right next to the POLANICA that night?

A That conversation occurred after we fired upon the ship, because we had instructions from Dr. Bosch to confuse Ricardo Morales, and we did not think he was working legally.

Q Did you think that you were working legally?

MR. GREENSPAHN: Objection and move to strike as asking for a conclusion on the part of the witness.

MR. BIERMAN: The witness has given one conclusion. I think we can compare them.

THE COURT: I do not think it makes any difference what he thought, whether it is legal or illegal. I will sustain the objection. It is what

Morejon - cross

he did or didn't do.

MR. GREENSPAHN: If your Honor please, I understand that the last answer was interpreted exactly in a 'literal sense, but it has an idiomatic meaning that was not given in the Spanish language.

THE COURT: Well, let's straighten it out.

MR. GREENSPAHN: I understand the way that the answer was given, he said that he understood that he was not being legal. The word "legal" is an idiom and it means he wasn't being honest, is that not correct?

THE WITNESS: Yes, he wasn't honest.

MR. GREENSPAHN: Talking about Morales.

THE COURT: All right. We have that straightened out.

BY MR. BIERMAN:

Q Do you remember describing to Mr. Morales, for whatever reason you were doing it, the difficulty of this shot?

A Yes, we had talked about this, also.

Q What did you say to him? Do you recall

Morejon - cross

saying this? And I will read it to you in Spanish, the following. Read this, please.

(Thereupon the matter referred to is contained on Page 7 of Tape No. 2 hereinbefore described.)

A Yes, I remember having that conversation.

Q How did you know to say it was difficult, where you say "It was as difficult as---. The fellow, brother, yes, indeed, the fellow was moving fast." What were you describing? You were fishing on the other side.

A We had received instructions from Dr. Orlando Bosch that if Ricardo Morales asked us anything about the firing, we should make it look that he fired--that I had fired, because we had to protect Ernesto's person, because he was in Miami at that moment, and he had suspected Morales was not working honestly with us.

Q Did you, sir, and Mr. Balan follow the instructions of this person that you call Ernesto on

Morejon - cross

the night that the gun was fired at the POLANICA?

A Yes.

Q Did you assist him by standing watch?

A Yes.

Q Let me go back a number of answers.

You said that Dr. Bosch told you to confuse Morales so that if you ever told him that you fired this gun, it was a lie?

MR. GREENSPAHN: May it please the Court, the transcript of these tapes and these conversations, your Honor, are not--

THE COURT: I do not want any argument. Do you object to the question?

MR. GREENSPAHN: Yes, sir, I do.

THE COURT: I will sustain the objection. Proceed. Let's go.

BY MR. BIERMAN:

Q Do you recall, sir, whether or not you told Mr. Morales that you did not understand why the projectile did not penetrate the ship?

A I don't remember exactly.

Q Do you recall saying "No, boy. What

Morejon - cross

I do not understand is why it did not penetrate, boy."

MR. GREENSPAHN: May it please the Court, I believe that the answer that was given to the last question was "Yes." He said "Yes, I do not remember exactly," not "I do not remember exactly." He put the word "Si." At least I heard it used and I believe the court reporter--

THE COURT: Ask the question again and let's see what the witness answered.

BY MR. BIERMAN:

Q Do you recall having a conversation with Ricardo Morales and telling him that you did not understand why the projectile did not penetrate?

A I don't remember exactly if I said that. Our conversation was very lengthy.

Q Could this refresh your memory? Did you use these words?

MR. GREENSPAHN: If your Honor please, what possible refreshing of memory could reading the words do when he says--

THE COURT: Do you object to it?

MR. GREENSPAHN: Yes, sir.

Morejon - cross

THE COURT: I do not like speeches.
Your objection is sustained.

BY MR. BIERMAN:

Q Sir, how big was the room in which
you assembled the cannon?

A About a medium-sized room. I couldn't
say exactly the measurements.

Q Was Miss Miranda in the same room?

A Yes.

Q Then she would have observed you
putting this together if she was there, is that
right?

A She was not observing. She wasn't
really watching.

MR. GREENSPAHN: Your Honor, the word
is "paying attention."

• THE WITNESS: Paying attention.

THE COURT: Which is a perfect
illustration of one question too many.

BY MR. BIERMAN:

Q Was she present when you and Dr. Bosch
and Balan had the discussion as to whether or not you

Morejon - cross
would use the rifle the way it was?

A No.

Q Did you have any discussion as to where you were going to fire this gun at, what part of the ship?

A No, not in the home of Aimee Miranda.

Q Did you have it any place?

A Yes. Dr. Orlando Bosch had told us that afternoon what we were going to do, and this was explained at 735 Southwest 1st Street.

Q Whose house is that?

A Barbaro Balan.

Q Where were you to shoot at? What part of the ship?

A The lower part.

MR. GREENSPAHN: Your Honor, there is a question about the translation again.

THE COURT: All right, sir.

BY MR. BIERMAN:

Q What part of the ship were you to shoot at?

MR. GREENSPAHN: May it please the

Morejon - cross

Court, may I have one minute to find out?

THE COURT: Yes, sir.

MR. GREENSPAHN: To avoid the confusion that may result, Judge, I think it is necessary for the question to refer either to the individuals involved or the group collectively, because there is some question translation-wise as to whether when you use the word "you" it is a case of context.

THE COURT: I will ask the question. Did you have any discussion concerning where the cannon was to be aimed?

THE WITNESS: I don't understand.

THE COURT: You discussed aiming the cannon at the ship?

THE WITNESS: Not exactly. I knew what would happen, but I didn't know where they were going to place it.

THE COURT: All you knew, they were going to shoot it at the ship?

THE WITNESS: Barbaro Balan, also, and Dr. Orlando Bosch and Ricardo Navarette.

Morejon - cross

THE COURT: Go ahead.

BY MR. BIERMAN:

Q Referring to this list of ships, Government's Exhibit 71-A, you say you saw this at your apartment before?

A Yes, I had it in my apartment.

Q And you say, sir, you were looking for work from this list of ships?

A Yes. I took this list to find a ship in which I have worked on before.

Q What nationality was that ship?

A English.

Q Do you know why the Polish ship and the Greek ship and the other English ships were circled?

A No, I don't know.

Q Where is it that you got this?

A In an advertising office in the Jose Marti Building.

Q Whose office is that?

A The name of it is Xigulop. And Jorge Gutierrez worked there.

Morejon - cross

Q That is the same Jorge Gutierrez that is here, is that right?

A Yes.

Q It was written and circled at the time you received it?

A Yes. That's how I found it.

Q Do you have a longshoreman's papers? Were you a union member?

A No.

MR. GREENSPAHN: Objection. It is immaterial and irrelevant and I move to strike it.

THE COURT: No, it is not. Your objection is overruled.

BY MR. BIERMAN:

Q What is your answer?

A No.

Q Are you a member of any longshoreman's union as an associate in any way?

A No.

Q Referring to this ship that you worked on before, as you said, the ANNA PATRICIA, what did you do aboard that ship?

Morejon - cross

A I was loading the ship and was using one of those apparatus to load the ship.

Q A machine?

A Yes.

Q Are you a member of any union which operates these machines?

A No.

Q What portion was that that you were working at, sir?

A I was working in the port--that is, after the discontinuation of that port on 20th Street Northwest--it is called North River Drive.

Q Here in Miami?

A Yes.

Q What kind of boat was this ANNA PATRICIA? Is it an oceangoing vessel?

A Yes.

Q Who gave you this job? How did you come to get it?

A I went and I applied for the job, and through a friend of mine that works in the office I got the job.

Morejon - cross

Q Did you wear a union button when you were there?

A No, it was not necessary there.

Q In addition to the three blasting caps which you have in your apartment, did you have any other explosive devices?

A No.

Q Did you have any casing for other explosive devices?

MR. GREENSPAHN: If it please the Court, I submit this is not material or relevant.

THE COURT: I think he has gone as far as he is going, anyhow. I don't know.

MR. BIERMAN: I was going to show him something.

THE COURT: I think it is legitimate cross examination in view of the explanation that the witness has given. I am going to overrule the objection and I will permit the question to be answered.

MR. GREENSPAHN: Your Honor, there seems to be a question again as to translation. I am

Morejon - cross

sorry to interrupt. Could he ask the question once again?

THE COURT: All right, sir. Let your man interpret it to him.

MR. BIERMAN: The question as I have asked it is, did you have any other casings for explosive devices at your home?

THE WITNESS: I had two wrappers used for explosives that I bought at the Army-Navy Store.

(Thereupon a conversation in Spanish ensued between the witness and Interpreter Diaz, pursuant to which the following proceedings were had:)

THE COURT: Wait just a minute. Let's not carry on a private conversation. You are acting as an interpreter. Interpret what he says as he says it into English, or this lady will do it. But we do not want any private conversations going on between the two or three of you. I asked a question and the answer was made. Now let's get the answer and then you can carry on whatever discussions you want to after

Morejon - cross

that. But let's not carry on any discussion now.

If you are going to assist as an interpreter, interpret precisely what he says as he says it. Now, what did he say?

MR. DIAZ: Exactly what I said. I stopped him in the middle. I did not go through to the end. And then I have to make my own interpretation of it. I have to go along--I didn't want to get lost.

THE COURT: You have got the two of you there now. Certainly Spanish cannot be so difficult that two of you cannot correctly understand what the man said. Something is wrong. Now, one of you interpret what he says in English. And if the other one does not agree with him, let him or her say they do not agree with him and let's get it straightened out.

All right. Now we will start all over again and ask him the question one more time.

Did you have any other casings for explosives at your house?

A I had two wrappings which were empty. These are used for grenades.

Morejon - cross

THE COURT: Does that accord with your interpretation?

MR. DIAZ: Yes, sir.

THE COURT: Fine.

BY MR. BIERMAN:

Q What were you doing with these?

A I had it in my home. I bought it in the Army-Navy, and I had it because you can find it anywhere in any Army-Navy Store for any kind of use.

Q What kind of use did you have for it?

A To give it to somebody, maybe to use it against Castro and maybe against Communism.

Q And I believe the last question I have is, did you think that you were fighting against Castro and Communism when you brought this 57 millimeter gun to the MacArthur Causeway?

MR. GREENSPAHN: Objection, your Honor.

THE COURT: I will sustain the objection.

MR. BIERMAN: We have nothing further.

THE COURT: Redirect?

You may come down, Mr. Morejon.

All right, sir. You may be excused.

(Witness excused)

THE COURT: Ladies and gentlemen, we will take about a fifteen-minute recess. Would you like time to get a cup of coffee?

(The jury indicates in the affirmative.)

THE COURT: Try to make it in about fifteen minutes, if you can. We will be in recess for fifteen minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: Call your next witness, please, sir.

THEREUPON--

JORGE LUIS GUTIERREZ ULLA,
called as a witness in his own behalf, having first been duly sworn, was examined and testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: My name is Jorge Luis

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Ulla - direct

Gutierrez Ulla. I live at 1029 Southwest 1st Avenue.
I work for Xigulop, Spanish Advertising.

DIRECT EXAMINATION

BY MR. GREENSPAHN:

Q How old are you?

A I am twenty years old.

Q Who is your father?

A My father is Paulino Gutierrez, the
gentleman behind Orlando Bosch.

Q Mr. Gutierrez, how long have you been
acquainted with Orlando Bosch?

A I would say for four years or maybe
more.

Q What has been the nature of your
relationship with Orlando Bosch?

A For all this time I have been a member
of the M.I.R.R.

Q What is the M.I.R.R.?

A Insurrection Movement for Revolutionary
Recovery.

Q What is the purpose of M.I.R.R.?

A The purpose of the M.I.R.R. is to

Ulla - direct

change the conditions in Cuba at this time. The aim is to change the government into a democratic one so that the people can have their own government and do the things that they find proper, not the dictatorship that they have now.

Q Mr. Gutierrez, when did you come to the United States?

A I came to the United States in 1961.

Q What has been your principal occupation or source of employment within the last two or three years?

A After I finished high school, I went to college. Then I engaged in a business activity with Xigulop, Spanish Advertising, in Miami.

Q Where is the Xigulop Spanish Advertising Company office located?

A At the Jose Marti Building, 290 Southwest 8th Street.

Q With whom are you associated in that advertising agency?

A With two other gentlemen--Mr. Miguel Siques (phonetic) and Mr. Pedro Lopez.

Ulla - direct

Q What are your duties in the advertising agency?

A I am in charge of the production department, sir.

Q Mr. Gutierrez, is the office facility of the Xigulop Company shared by any other group or organization or company?

A At this time it is not; it had been previously.

Q When and by whom?

A A few months ago it was shared by the Trans-Caribbean Ship Chandlers of Miami, whose president is Mr. William Jiminez.

Q What was the nature of that business, if you know?

A It is a ship chandlery company.

Q Do you occupy any position by title with the organization known as M.I.R.R.?

A I am the press secretary of the M.I.R.R.

Q Are you, sir, acquainted with Ricardo Morales Navarette?

A Yes, I know Mr. Ricardo Morales

Ulla - direct

Navarette.

Q When did you first become acquainted with him?

A It would be hard for me to recall the exact date, but I think it was more than three years ago.

Q Have you from time to time from that time until May of this year seen Ricardo Morales Navarette in the Miami area?

A Yes, I have seen him.

Q Have you, during the calendar year 1968, had occasion to meet with Ricardo Morales Navarette at your place of employment?

A Yes, sir.

Q On how many occasions, if you can recall, during the calendar year 1968 has such a meeting occurred?

A Between five and three times; maybe three times, maybe four times.

Q Can you recall the first instance of such a meeting? When in this year did you first meet with Morales?

Ulla - direct

A At my place.

Q At your place of employment?

A I cannot recall that, sir.

Q Do you recall any unusual occurrences or events that occurred at the time of any of your three to five meetings with Morales this year?

A Do you mind repeating the question, sir?

Q Let me put it to you this way: Did Ricardo Morales this year come to your office at any time and bring with him any object?

A Yes, sir.

Q Who was present at the office at that time?

A I cannot recall, but I am sure I was not alone. There were some other people there.

Q Who was employed by the Xigulop Corporation other than yourself and--

A There was a gentleman by the name of Minervino Rojas. He was our cameraman to make commercials. And there was another gentleman, Marcos Rodriguez Ramos, who is a defendant in this trial.

Ulla - direct

Q In what capacity is Marcos Rodriguez Ramos employed?

A He is in the production department at the company.

Q Is he still employed by the company?

A I would say so.

Q When Morales came to your office on the occasion that you referred to, did he bring with him any object?

A Yes.

Q What did he bring with him?

A He brought a New Orleans newspaper, as I recall.

Q Will you tell us what he said to you and what you said to him?

A It was kind of a peculiar meeting with Mr. Morales. He came to the office with this newspaper, and being there for no more than one or two minutes, he looked at me and started to talk about the war situation. It was the time when the Russians were invading Czechoslovakia. He showed me the front page of the New Orleans Item, a newspaper, and

Ulla - direct

he started to make comments on the headlines. I don't recall his words, but I recall the occasion.

Q Did the occasion at that time have any particular significance to you?

A At that time it didn't. At this time it has, definitely.

Q Now, sir, did you at that time place your hands upon the newspaper?

A The question again?

Q Did you at that time place your hands on or did you touch the newspaper?

A I went over the newspaper. I opened up the newspaper. I read in the newspaper, parts of it I checked. I made comments on the newspaper, not on the news.

Q Did Morales tell you his reason for having brought that newspaper with him?

A I remember I asked him, "Why do you have the New Orleans paper?" And he said, "You have to be well informed."

Q What did you say?

A I didn't say anything after that.

Ulla - direct

Q For how long a period of time did that meeting take place?

A Do you mean how long this very meeting lasted?

Q Yes, sir.

A It was a short meeting, but I don't recall. Maybe he stayed there for more than ten minutes or maybe he stayed in the office talking to somebody else, but I don't recall that.

Q I am going to show you Government's Exhibit No. 67. I show you the contents of the large wrapping and of the smaller wrapping and ask you, sir, even though it is in pieces and discolored, to study these contents for a moment and tell me if you can identify or signify what that object is.

A In other words, you want me to go over the paper?

THE COURT: What he wants you to do is look at that paper and tell him whether or not that is the newspaper that Mr. Morales showed you, as you say.

THE WITNESS: Is that it?

Ulla - direct

MR. GREENSPAHN: Yes. Be careful.

It is very fragile and will fall apart.

THE COURT: Look at it and see if you recognize it.

THE WITNESS: This is the Miami Herald.

BY MR. GREENSPAHN:

Q Look through the rest of this and see if there is anything that resembles what you say you saw. Just put what you are done with over on the other side there.

A (Examining paper) There are parts here that belong to the Miami Herald, as I told you, but the other parts are from the New Orleans paper. I remember that paper. I went over it that day. And I think that there are parts here that may be like the paper I read. I mean the lettering and so on. I went through that paper from an advertising angle and I know what letterings are, how papers go, and so on.

Q Now, what disposition was made of the newspaper that was brought by Mr. Morales to your office on that date? What happened to that paper, if

Ulla - direct

you know?

A I don't know, sir.

Q Did the paper remain in the office?

A I cannot recall, sir.

Q Was Mr. Marcos Rodriguez working at the company at the time of this incident that you are telling us about?

A At that time?

Q Yes, sir.

A Yes, sir.

Q Do you have any recollection as to whether he was in or about the office at the time this occurrence happened that you have told us about?

A I don't recall, sir.

Q Mr. Gutierrez, did you have occasion on September 16, 1968, to go on or about the MacArthur Causeway?

A Will you repeat the question again?

Q Did you, on September 15th or September 16th, during the late night hours, go upon the MacArthur Causeway?

A No, sir.

Ulla - direct

Q Did you have any indication or knowledge that anything was going to occur on either of those dates on the MacArthur Causeway?

A I did not, sir.

Q Have you, sir, ever been on, at or near the motor vessel LANCASTRIAN PRINCE?

A No, sir.

MR. GREENSPAHN: Your witness.

CROSS EXAMINATION

BY MR. BIERMAN:

Q As the press secretary, Mr. Gutierrez, of the M.I.R.R., did you have anything to do with the preparation of this document which is marked Government's Exhibit No. 75?

A I did not, sir.

Q Didn't you do most of the preparation of all of the releases and documents that Mr. Bosch released?

A Yes, sir.

Q But you didn't do this particular one?

A That is not a document. That is a proposal, done by the M.I.R.R. to be given, as it says

Ulla - direct/cross

there, to American people, to potential American people to help the Cuban cause.

Q You didn't help write it?

A I did not help write that.

Q Did you write press releases for Ernesto?

A No, sir.

Q Referring to this mysterious time that Ricardo Morales came to your office with the New Orleans States-Item, around when was that, sir?

A I would place it this way, because I do not recall dates: I do not go by dates. I remember it was during the time of the Czechoslovakian crisis.

Q It was during the time of the Czechoslovakian crisis?

A Yes, sir.

Q And you don't know when that was?

A I don't recall, sir.

Q Was it after the Russian troops had gone into Czechoslovakia or was it around then?

A I think the Russian troops had gone

Ulla - direct/cross
into Czechoslovakia.

Q Was it after the Republican Convention or before the Republican Convention?

A I cannot establish a relation. As I recall, between the Republican Convention and the Czechoslovakian crisis.

Q How about the Democratic Convention?

A I cannot, either, sir.

Q Did you not travel to New Orleans with somebody else and go to the port and the dock there?

A No, sir.

Q What kind of car do you have, Mr. Gutierrez?

A I have a Renault 1966.

Q Do you also drive another car sometimes?

A Yes, sir.

Q What kind of car is that?

A Well, it depends. If you are referring to a specific car, my father has a car and my fiancée has a car.

Q Your fiancée's car? What kind of car

Ulla - direct/cross

is that?

A. She has got a Dodge Dart 1965.

Q. Didn't you, in fact, drive that car to the MacArthur Causeway on the night of September 16 and have a discussion with your father and Dr. Orlando Bosch parked next to the Miami Herald?

A. I did not, sir.

Q. You did not park that car? You did not drive by there with that car?

A. I didn't, sir.

Q. Do you recall being arrested by the Federal Bureau of Investigation?

A. Yes, sir.

Q. Do you recall making a comment to the agent who arrested you?

A. No, sir.

Q. Did you make any comments to him in regard to driving automobiles on the night of September 16th?

A. Who is "them"?

Q. The special agents of the Federal Bureau of Investigation who placed you under arrest.

Ulla - direct/cross

A I do not recall, sir.

MR. BIERMAN: Your Honor, we have some testimony to proffer.

THE COURT: All right, sir.

Ladies and gentlemen of the jury, we will have to ask you to excuse us for a few minutes while we go over this matter.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

MR. BIERMAN: Your Honor, the next question that I would ask--and I will ask it, if I could, first, and then go into the proffer.

THE COURT: All right, sir.

BY MR. BIERMAN:

Q Mr. Gutierrez, do you recall stating to Agent Stickney and Agent Jellison, "I was not involved. All I did was drive the car"?

A I was informed of that report of the FBI by my attorney Melvyn Greenspahn. I did not say what Mr. Stickney reported in the FBI report.

Ulla - direct/cross

Q Then you are denying making that statement?

A Yes, sir.

THE COURT: Then we will just put that on in rebuttal.

MR. BIERMAN: I was going to ask about it.

THE COURT: At the present time I am not sure that, out of the presence of the jury, you have laid a particular foundation. But before that statement--

Do you have any objection to that question?

MR. GREENSPAHN: I object to the question and the answer.

THE COURT: Do you object to the question "Did you on a specific date say to the FBI agents so-and-so and such-and-such, in effect, I did not have anything to do with it. All I did was drive the car"?

MR. GREENSPAHN: Well, the man denies it and he will, of course, give the same answer. I am

Ulla - direct/cross

not objecting to the asking of the question.

THE COURT: There are all kinds of reasons if you want to object--Miranda and all the rest.

MR. GREENSPAHN: I have been supplied with the report by Mr. Bierman, and I confronted Mr. Gutierrez with it. I don't know about Miranda. I don't know what predicate has been laid and I don't know what, if anything, was given by way of advice.

THE COURT: The only way I know that you can lay a predicate is to specifically ask him whether or not at a particular time and place he stated certain things to a named individual. If he says yes, that's the end of it. If he says no, then, of course, it would be proper rebuttal to bring that individual and place him under oath and have him say that that conversation did take place. I think that would be the proper procedure normally.

MR. GREENSPAHN: The thing that concerns me is procedure and procedure only, really, in this regard as to this proffer: I presume the question will be asked and the same answer will be

Ulla - direct/cross

elicited.

MR. BIERMAN: I will rephrase the question a little bit different to state that after a discussion with regard to a 1964 Dodge Dart registered to Mr. Gutierrez's girl friend's father, he made the statement "I was not involved. All I did was drive the car."

THE COURT: At a particular time and to a particular person.

MR. BIERMAN: At the time of his arrest. And let me get the question exactly as I am going to ask it for the record, if I could, your Honor. I will ask him whether or not he made the statement to Special Agents Jellison and Stickney, while driving to the Miami FBI office after being arrested and after being informed by one of the agents that a 1964 Dodge Dart registered to his girl friend's father had been observed on MacArthur Causeway, at the time the Polish ship POLANICA was fired on, whether or not he said, "I was not involved. All I did was drive the car."

MR. GREENSPAHN: Well, I think the

Ulla - direct/cross

predicate has to be--

THE COURT: All right, sir. I will permit you to ask the question then as a predicate for impeaching or rebuttal evidence, depending, of course, on what the witness answers.

All right, Mr. Marshal. Will you please bring the jury back in?

(Thereupon the jury was returned to the courtroom, pursuant to which the following proceedings were had:)

THE COURT: All right, sir.

BY MR. BIERMAN:

Q Mr. Gutierrez, do you recall, sir, at the time that you were arrested for this offense and while en route to the FBI office, making a comment to Special Agents Jellison and Stickney of the FBI, after having been informed that your girl friend's father's car, a 1964 Dodge Dart, was observed on the MacArthur Causeway at the time that the Polish ship POLANICA was fired on, do you recall, sir, stating to them, "I was not involved. All I did

Ulla - direct/cross

was drive the car"?

A I am sure, sir, that I did not say those words, but I would like to ask the Judge if I can add more to it in this situation.

THE COURT: If you have anything to explain or amplify for your answer, you may give it.

THE WITNESS: First of all, one of the agents that you mentioned there--I don't recall him--the other agent (Mr. Stickney) I recall him, and I recall that he spoke to me all the time--he talked to me all the time in Spanish and I talked to him in Spanish. He is versed in Spanish. He was never at that time--he was not taking notes. I don't know if he was taping. Maybe he had a tape recorder on him, but I couldn't see it. I remember he was not taking notes. He was talking to me in Spanish. He was very nervous. All he said was--the most important thing to me that he said was when I asked him, "Why are you so nervous? You look like a wreck."

He said, "Listen. I hate to do this. This is the worse task I ever have been assigned to."

So I think under these conditions

Ulla - direct/cross

nobody could recall such a statement. If it was made, it was made in Spanish, and it wasn't, sir.

BY MR. BIERMAN:

Q Other than the cause of their extreme nervousness, do you recall making that statement?

A I do not recall making that statement, sir.

Q You were calm, is that right?

A Yes, sir. Very much indeed.

Q Now, this M.I.R.R. that you are a member of, what exactly is its purpose?

THE COURT: He has already testified to that. Let's not repeat it.

BY MR. BIERMAN:

Q What have you done to accomplish its goal?

THE COURT: You may answer that.

THE WITNESS: Could I have the question again?

THE COURT: He asked you first what the purpose of the M.I.R.R. was; you have already answered that and you said what the purposes were.

Ulla - direct/cross

He is now asking you what, if anything, have you done to accomplish the objectives of the M.I.R.R.

THE WITNESS: I think to go into militant activity will get to be more personal than anything. It will not harm me personally or the world, but I don't think it is proper to--

BY MR. BIERMAN:

Q Give me the nature of the activities that you have gone into.

A I have been working, sir, with the democratic organization composed of Cuban exiles who aim to fight for their country, to give their country, their fatherland, a democratic government.

Q Inside the country or in the United States?

A I have been inside the United States because I am exiled--a political exile, sir.

Q Mr. Gutierrez, did your attorney show you the pictures of your fingerprints on the New Orleans States-Item?

A Yes, he did, sir.

Q Did he show you the ones where it says

Ulla - direct/cross

"Exile Efforts Checked"? Do you recall seeing that?

A Yes.

Q Is that perhaps, sir, what put into your mind that this was around the time of the Russian invasion of Czechoslovakia?

A Will you ask that question again?

Q Was the fact that you looked at these pictures that mentioned--

A No, sir.

Q I show you Government's Exhibit 71-A, which is a list of shipping with certain ships circled and underlined. Was this in your office, sir?

A Yes, sir.

Q What was it doing there?

A I don't remember if I testified before that my office was shared by a ship chandlery company. Did I?

Q Yes, you said that.

A Mr. William Jiminez, who has the office there, he used to receive these in the mail every day--the daily dock report and sometimes about a year ago, maybe, I used to go with him to Dodge

Ulla - direct/cross

Island. In fact, I became familiarized with the name at that time. Afterward, I saw it in my bond; I cannot go to that place now. But I remember he used to get this in the mail every day.

Q Okay. What time was it that this Mr. Jiminez shared your office space with you? What date was that, sir?

A I don't recall the exact date, sir.

Q Around what time of the year?

A He has been with us since the beginning, and then he separated.

Q When did he separate?

A He separated a while ago. I don't remember.

Q How long in relation to this Czechoslovakian crisis? When was it?

A I wouldn't go into the politics. I will go into the papers and check in my office for accuracy.

Q Do you recognize these markings, including the circle around the name "POLANICA" and "Pole"?

Ulla - direct/cross

A Yes, sir.

Q Who placed those markings on there?

A I did, sir.

Q You placed them on there?

A Yes.

Q For what reason did you place them on there?

A I recall that many times I went over those papers with Mr. Jiminez, and I remember that specific paper that you have there. This paper didn't remain in the possession of Mr. Jiminez. This paper was used for a comment that we had.

THE COURT: For what?

THE WITNESS: For a comment that we had. There were other people in my office. Dr. Orlando Bosch was in my office and other members of the M.I.R.R. We were talking about commerce, trade with the Castro government.

And I recall that I pointed out to them that Communist vessels were coming into the United States, and they said, "No, we don't believe that."

And I said to them, "Look. It says

Ulla - direct/cross

'Pole' and I presume this is Poland, which is a Communist country."

Q How about the other markings on there?

A The other Xs and circles are only scratches for me now.

Q Well, who put that in there?

A From my recollection, I placed them there.

Q Were you also pointing out then there were other vessels coming in?

A No, sir.

Q Why were these placed on there?

A I said that, to the best of my recollection, I cannot tell you why.

Q You cannot tell me what?

A At that time I didn't have anything to do with the Communist movement.

Q When did you first hear of the vessel POLANICA other than circling it on there in May?

A I beg your pardon?

Q When did you first hear about the vessel POLANICA other than circling it on this list in

Ulla - direct/cross

May?

A Well, you showed me that exhibit. I didn't know and I didn't read if it was the POLANICA. I went to the part where it says "Pole." There may be other ships.

Q The question was, when did you first hear of the vessel POLANICA other than the time that you saw it here in May?

A Well, if I saw it in May, it was not the POLANICA, because it says "POLANCIA" which is a different name. What I saw in the papers afterwards was the POLANICA, which is a different name. Although it may be the same ship, it's a different spelling.

Q On this date that Mr. Morales came to your office and had you examine the New Orleans States-Item, you say you thought it was a bit peculiar at that time?

A No, sir, not at that time.

Q You thought it was--

A Well, on that time I asked him, "Why do you read the New Orleans paper?"

And he said, "You have to be well."

Ulla - direct/cross
informed," or something like that.

Q How do you read a newspaper, sir?
How did you read this newspaper?

A I didn't read this newspaper, sir.
I went over it.

Q How did you come to touch it?

A With my hands.

Q With your hands? Show me if you would.

A I don't have a paper here.

Q If this were a newspaper, show me how
you would do it.

A I don't know if this will demonstrate
it.

Q Well, we will try.

MR. GREENSPAHN: If it please the
Court, I don't think it has been established that
Mr. Gutierrez has yet recalled the specific and
particular manner in which he touched the newspaper.
I don't think any of us would. If he is asking for
him to do it, it is not indicative of anything as to
what may have been when the other event occurred.

THE COURT: Well, I do not think that

Ulla - direct/cross

he has so far in his testimony, but I think counsel is entitled to go into the manner in which he held the paper and how it was when he read it. So I will permit the question.

THE WITNESS: May I answer?

THE COURT: Yes, you may.

THE WITNESS: There are many different ways for a person to read a newspaper. You can read it down on the floor or you can lay down on the floor or you can--

THE COURT: Yes, sir. He didn't ask how people could read newspapers. He asked you how you read this particular paper that Morales had that day he showed it to you.

THE WITNESS: I think that the occasion on which I read this newspaper I was standing up, because I am kind of a short fellow, and when I read big newspapers, I usually stand up.
BY MR. BIERMAN:

Q Now, show me. You can stand up here and show me from a standing position how you read a newspaper.

Ulla - direct/cross

A Something like this, putting it on some desk or something.

Q You put it on a desk?

A And I lift it.

Q And you take it by the side of the page, like a normal person does and you turn the pages?

A (No response)

Q And all the pages of the States-Item are large like a newspaper?

A I cannot recall that, sir.

Q As an advertising man who makes layouts, don't you quite often thumb through a newspaper, hold it by the top, and just move it with your two fingers looking for a layout that you have made?

A I don't know if I have that tendency, sir.

Q You do not recall leaning down upon this newspaper, do you, sir?

A No, sir.

Q Is Mr. William Jiminez still in the Miami area?

Ulla - direct

A Yes, sir, I think so.

Q Is he at that address? Is he still sharing space with you?

A No.

Q But he is in the Miami area?

A Yes, sir. I don't know if he is in the Miami area. I think so.

THE COURT: All right, sir. He said he thinks he is. He does not know for certain.

MR. BIERMAN: I have nothing further.

THE COURT: Redirect, please?

MR. GREENSPAHN: No further questions at this time.

THE COURT: You may step down.

(Witness excused)

THE COURT: Call your next witness, please, sir.

THEREUPON--

ORLANDO BOSCH AVILA,
a defendant herein, having first been duly sworn,
was examined and testified as follows:

THE CLERK: Please state your full name,

Orlando Bosch - direct
address and occupation.

THE WITNESS: My name is Orlando Bosch, physician. My address is 297 Northwest 48th Place. My age is forty-two years old.

DIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Dr. Bosch, when did you come to the United States, sir?

A The last time, sir?

Q Yes.

A In 1960. July. Some day in July, 1960.

Q From what place did you come?

A From Cuba, sir.

Q Upon your arrival here, what was your employment? What kind of work did you do?

A Physician.

Q When was the last time you were actively and gainfully employed as a physician?

A In the Hialeah Hospital here in Miami, and in the North Miami General Hospital.

Q Do you have a family?

Bosch - direct

A Yes, sir.

Q Tell us briefly the nature of your family.

A I have a wife and I have five children-- three girls and two boys. The last one was born in this country. The others are Cubans. The three girls are also Cuban.

Q Dr. Bosch, I am going to show you Government's Exhibits 1, 2 and 3. First I show you Government's Exhibit No. 1 and ask you if you have, before coming into the courtroom for this trial, ever seen that exhibit before.

A No, sir. I haven't seen this one.

Q I show you Government's Exhibit No. 2. Have you seen that before, sir?

A I haven't seen that, sir.

Q And finally, Government's Exhibit No. 3?

A I haven't seen this telegram.

Q Dr. Bosch, on June 6, 1968, did you go to 230 North Miami Avenue, to the Western Union office that is located there?

A You asked me about June 6, 1968. You asked if I went to the Western Union?

Bosch - direct

Q At 230 North Miami Avenue.

A No, sir.

Q Dr. Bosch, would you come down off the witness stand, please?

Would you stand over here, sir. I don't mean to cause you any embarrassment, but I think that you have what appears to be a red mark underneath your lower lip.

A Yes, sir.

Q Will you tell us what that is?

A I got that all my life.

Q What is it, sir?

A It is a birthmark. This is a birthmark I have here all around my lower lip and my chin, which is a birthmark, a red birthmark.

Q Doctor, does that condition change in its appearance or does it remain the same from day to day, week to week and year to year?

A It is always the same.

Q Dr. Bosch, when did you first start to wear a moustache?

MR. BIERMAN: I object.

Bosch - direct

THE COURT: It is no longer necessary for you to stand. You may resume the witness stand.

The question, sir, is when did you first start wearing a moustache.

THE WITNESS: I think it was when I was about seventeen years old.

BY MR. GREENSPAHN:

Q Since that time have you consistently and regularly worn a moustache?

A I have. I have used it permanent. I never had it cut off until I was here in jail. They didn't have anything how to fix it, because a moustache needs to be fixed once in a while. And I cut it off here, but I have my passport and I have my county medical certification, and the FBI also has quite a few pictures of me.

THE COURT: I do not want to cut you off, sir, but the answer is he has worn it all the time. Ask your next question.

THE WITNESS: My answer is yes.

BY MR. GREENSPAHN:

Q Doctor, will you identify these

Bosch - direct

documents, sir, this document that I hand you? • What is that?

A This is a document provided to me by the Florida Medical Association, my qualifications for licensing, "Qualification for Licensure as Achieved," where it says I took my internship in Toledo Hospital, Toledo, Ohio, and the date here and the number here.

Q Now, Doctor, there is a picture affixed to that. Is that a picture of you?

A Yes.

MR. GREENSPAHN: I would offer this for the defendant Bosch.

THE COURT: All right, sir. Is there any objection?

MR. BIERMAN: No objection.

THE COURT: All right, sir. It shall be admitted in evidence with leave to substitute a photostatic copy of it.

(Thereupon the document referred to was received in evidence as Defendant Bosch Exhibit No. 3.)

Bosch - direct

BY MR. GREENSPAHN:

Q Dr. Bosch, when did you first become acquainted with Ricardo Morales Navarette?

A As far back, I think, about 1962 I met Morales in some place here in Miami.

Q What was the nature of your meeting at that time, if you recall?

A I think it was casual on 8th Street, and at that time we had a simple conversation which I didn't recall, and it was something about the Cuban situation, as we usually do.

Q Did you have occasion in 1963 and 1964 and 1965 to again see Morales?

A Yes.

Q Was that frequently or seldom?

A In some period it was frequently, some period it was seldom.

Q Before April 25, 1968, did you ever at any time engage in any business transactions with Mr. Morales?

A Before April?

Q Of this year, that's right.

Bosch - direct

A No, sir.

Q Did you have occasion to meet Morales in April of this year?

A Yes, sir.

Q Will you tell us where and under what circumstances?

A In April, the end of April, I think it was the 25th or the 26th--I don't recall exactly the date--I was parking my car in Barbaro Balan's house which is located on 3rd Street in the southwest section between 7th and 8th Avenue. I don't know exactly the number.

When I was parking my car, I was going out, and Morales passed by. He blew the horn and parked in front of me, ahead of me, and came out of his car, and he said, "Orlando, I want to talk with you."

Q What was the nature of his discussion at that time? What did you say to him and what did he say to you?

A At that time he was a little nervous and he said, "Orlando, what a trouble, what a problem

Bosch - direct

I have it."

MR. BIERMAN: Just a minute, your Honor, we will object to any detailed discussion of what problems Mr. Morales had. I think they have been gone into deeply enough beyond the permissible scope. I will object to any further discussion without a proffer at least.

MR. GREENSPAHN: Your Honor, may I approach the Bench?

THE COURT: Yes, sir.

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury:)

MR. GREENSPAHN: In the transcript Mr. Morales talked about his conversations with Bosch and the nature of these conversations. I think inasmuch as he was there, we should certainly have the right to elicit that same line of questioning from this witness.

THE COURT: If this witness is going to say that Morales told him that he had a problem, that he had been arrested for a bombing, that is perfectly

Bosch - direct

all right. But I don't think that you should elicit the detail of the things. I assume that probably is what he was going to say.

MR. GREENSPAHN: That's right.

THE COURT: I think that would be consistent with the ruling that I have made. I just do not want to get into the details.

MR. GREENSPAHN: The only problem is that I don't know how far he is going to go in his answer.

THE COURT: We will have to try to stop him if he gets into it.

MR. BIERMAN: I suggest that he be instructed in the question as to how far to answer.

THE COURT: I think that you can control it to some extent by asking specific questions rather than just what did he say and what did you say.

MR. GREENSPAHN: He said now that he had a problem.

THE COURT: I think you can ask him specifically what was the problem, and I am sure that he will probably say that he was arrested, and if he

Bosch - direct

says he was arrested, I think you could ask him did he say what he was arrested for. I think it can be controlled within some limits. It is one of these things that you can't put an iron fence around.

MR. GREENSPAHN: There are going to be other areas that come up in the subsequent conversations where Morales again brings up the name of the witness Valdes, and that conversation I hope can be related, but I will not dwell on it.

THE COURT: Well, as to anything that has been admitted in evidence in those tapes I think you have a right to ask him about.

MR. GREENSPAHN: All right. Thank you.

(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had in open Court:)

THE COURT: You were saying, sir, that Mr. Morales came up to you and told you that he had a problem. All right, sir. Go ahead.

BY MR. GREENSPAHN:

Q Specifically what problem did he tell

Bosch - direct

you he had at that time?

A. Well, he started--he began to talk--

THE COURT: No, sir. The question was, what specific problem did he say he had?

THE WITNESS: He said he had a problem pending, a trial pending, because he placed some bombs in Miami.

MR. BIERMAN: Your Honor, this is the exact area that has been proscribed Dr. Bosch was present during all the arguments about that. I think this is improper.

THE COURT: Ladies and gentlemen of the jury, I am going to strike the latter part of the witness's testimony on my own motion, first of all, on the ground that it is not responsive to the question. It goes beyond any proper answer to the question that was asked.

Secondly, I have ruled that in this trial the fact that Mr. Morales had been arrested, had been charged with some bombing and had not been tried is admissible. I have ruled that I am not trying the guilt or the innocence of Mr. Morales. That is a

Bosch - direct

matter for another court to try. It is not something for you as jurors to pass upon. That is entirely outside the purview of this trial. The only reason I have admitted that evidence is because it is a matter which might tend to go toward the credibility and the weight that you might give to Mr. Morales' testimony. Whether or not he is guilty or innocent has nothing whatsoever to do with this trial at all, and it is not to be considered by you in your consideration of the case.

Does everybody on the jury understand that?

(The jury indicates in the affirmative.)

THE COURT: All right. You may proceed.

BY MR. GREENSPAHN:

Q Now, Dr. Bosch, did you have further conversations at that time with Morales about anything other than his problems of the moment?

A Yes, sir. After he conferred with me about his problems, I advised him--he asked me my

Bosch - direct

advice, to say why, and don't do any more of those acts.

MR. BIERMAN: Your Honor, I am going to ask that the entire testimony of this witness be proffered prior to it being given, if this is the manner in which it is going to come out.

MR. GREENSPAHN: Judge, I would like to argue the point before the Court. I don't think that counsel's objection is well founded at this point. But I don't want to conduct myself in a manner at this time that might be inappropriate to the circumstances.

THE COURT: Well, ladies and gentlemen, excuse us for a few minutes. We will talk this over.

(Thereupon the jury was excused,
pursuant to which the following
proceedings were had out of the
presence of the jury:)

THE COURT: Dr. Bosch, you are obviously an intelligent man and you understand English very well.

I have ruled about four times in your

Bosch - direct

presence and in your hearing that nothing is to be put into this record regarding Morales, his arrest, except the fact that he was arrested; that he was charged with the bombing, that the trial has been continued and there has not been a trial. I don't want you interjecting gratuitously and voluntarily any thoughts that you might have of his guilt or innocence. You may be doing it perfectly innocently, but when you start out with testimony like "Well, I advised him not to do this any more," it assumes at the very least that he is guilty of what he has been charged with. That is not what you were asked at all. You were asked by counsel did he have any other problems except the arrest and the trial. So then you go on at great length talking about the fact that he asked you for advice and you gave him advice, which is not an answer to the question that you were asked. I don't know what his other problems were. But what you have answered was not responsive to counsel's question.

I want you to pay attention to counsel's question, and I don't want you to interject

Bosch - direct

any more into this trial anything about whether or not Morales is actually guilty or not guilty with respect to this bombing charge that is pending at the present time. Do you understand that?

THE WITNESS: Yes, sir.

THE COURT: All right, sir. I don't want to have to stop you or interrupt you, but I am warning you now that I am going to do it if you do gratuitously interject those things into this testimony.

THE WITNESS: Judge, I understood--

THE COURT: I am not criticizing you. I am just explaining to you and I am telling you so that you will understand precisely what I expect and what the effect of my ruling is.

THE WITNESS: All right.

THE COURT: All right, sir.

Now, gentlemen, do we have any more arguments or anything about it?

MR. BIERMAN: None if it is followed, your Honor.

THE COURT: Well, let's take about a

Bosch - direct

five-minute recess.

And you, Mr. Greenspahn, perhaps may be able to explain to Mr. Bosch a little more what I am talking about and the effect of my ruling.

MR. GREENSPAHN: I will.

THE COURT: And how to answer your questions.

MR. GREENSPAHN: Your Honor, what is the Court's pleasure as far as how long we are going to go today?

THE COURT: Well, to six o'clock.

MR. GREENSPAHN: I don't want to stop in the middle of his testimony.

THE COURT: We have an hour and a half yet.

MR. GREENSPAHN: Because I was going to say there are other things--

THE COURT: And if it is necessary, we can go to seven. It does not make a lot of difference.

MR. GREENSPAHN: I don't want the Government to study his testimony over the evening and to come back in tomorrow morning. I want to

Bosch - direct
complete his testimony today, sir.

THE COURT: We will do our very best to complete it, and in that event I will expect cooperation from counsel so that we will not be wasting time. We will move along expeditiously.

We will take about a five-minute recess. And you can talk with Dr. Bosch.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had:)

THE COURT: You may proceed.

(Thereupon the following proceedings were had in the presence of the jury:)

BY MR. GREENSPAHN:

Q Dr. Bosch, before this meeting of April, 1968, had you had occasion to meet with Ricardo Morales and speak with him during the years 1964 and 1965?

A Yes, sir.

Q Can you describe to us briefly, without going into detail, the place of the meeting and the

Bosch - direct

nature of the conversation as you now recall it?

A It was in Mrs. Miranda's apartment. We were together and he was relating to me and telling me the stories about his experience in the Congo in Africa where he just came from.

Q Did he explain to you what his activities in the Congo had been?

A Yes, sir.

Q What did he tell you?

A He told me that he had gone there--he told me that he went to the Congo for money and because he was needed. And I asked him about how the situation was there, how the people were living, and some more questions, and he said, "Orlando, the situation was terrible, and I killed about a hundred Negroes," and also he said--I asked about the living situation, how the people--

MR. BIERMAN: Your Honor, I don't see any relevance to this.

THE WITNESS: That is what he told me, sir.

MR. BIERMAN: In 1964?

Bosch - direct

THE COURT: Go ahead, sir.

BY MR. GREENSPAHN:

Q Go ahead, Dr. Bosch. Was that about it?

22-1 A No. He said--I kept asking him about the police situation, the morale situation and the economic situation, and he said, "Orlando, look how the thing is there." He just said it to my face-- he said, "It was a woman there--a colored woman that she let me have her daughter for a week for a \$5 American bill."

THE COURT: Well, that is not a great deal different than the situation that was in Cuba at one time, is it?

THE WITNESS: There is a lot of difference, sir. In Cuba we never had that situation.

THE COURT: All right, sir. Go ahead.

Now, let's get off of that subject. We have had enough of that.

THE WITNESS: But you are offending my Cuban people, Judge.

THE COURT: All right, sir. If I

Bosch - direct

offended you, I apologize to you.

BY MR. GREENSPAHN:

Q Doctor, in April, 1968, did you have any further conversation with Morales other than that conversation you have already told us about?

A Yes, sir.

Q Tell us the nature of the conversation that you had.

A About a week or ten days after the first conversation that we had, he called me up by phone and he said, "Orlando, are you there?"

"Yes," I am answering my phone."

He said, "May I see you now?"

"Yes, come over."

He came to my house with a square box about ten feet wide and high. It was a square box. I mean about ten inches. Excuse me. Ten inches wide. It was square. Each side looked like ten or twelve inches. And he said, "Orlando. . ." First, he came out and knocked on the door without the box. He left the box in his car. He told me, "Orlando, I have something for you in my car. I want to get rid of it.

Bosch - direct

It is a war material. A lot of good stuff there."

I said, "All right. Bring it over."

He went to his car, he brought up that box. It had about ten detonators, booby traps, and some little fuses and some other war materials.

Q Did you take them from him?

A Yes, sir, I took it.

Q What other conversation or activities took place at that time?

A After that, in this conversation, we made some comment about the Cuban situation and about Cuban Power. He asked me several questions, and so on. And after that--it was in May when he came to my home, in the beginning of May, and after that we had, in the rest of May, about two or three conversations in the restaurant which is in the southwest section, in First Street and 12th Avenue.

Q What was the nature of those conversations?

A The first conversation we made an appointment by phone for that meeting, and he asked me if I was short of explosives, if I need some

Bosch - direct

detonators, and I said, "Morales, in this fight we are always short of everything until we win."

Q What fighting were you talking about?

A Castro; fighting for liberation, the Cuban liberation.

Q Go ahead.

A And he said, "Orlando, I am pretty short of propaganda in this fighting--anti-Castro fighting--and I have a good plan for that--to make a big noise and to make tremendous propaganda about it."

Q What was the plan that he had?

A I asked him what was the plan. He said, "Orlando, I have a plan to blow up the Russian Embassy in Washington." And he started to detail a lot of things how he can make a long cord with an explosive. He made a picture of how everything can be done, and I refused and I rejected it immediately. I told him, "Morales, this doesn't make any sense. We should fight against Castro and avoiding all the embarrassment that is possible to the United States Government. We will not make any profit for our cause from this sabotage. This is going to put us in

Bosch - direct

a bad spot with the United States Government, and they are going to try to make a big--to try to put us in jail. We are going to lose the American people's sympathy to our cause and in my personal opinion--" I made several statements, I told him that nothing should be done here in the United States territory.

And he argued against my position about what should be done so far, and we had coffee, and after that he promised to me to make some efforts in order to provide me explosives and other material, also.

Q When did you see him again?

A I saw him again in the same restaurant about a week or ten days later.

Q What was the conversation at that time about?

A At that time the conversation was about the explosions that had been happening all over the United States, and I made a comment about, telling him and explaining him that this was wrong; that I feel, as a Cuban leader, very disgusted because this is happening and the impression that we are giving to

Bosch - direct

the American people is that of a terrorist. And also he asked me who the Cuban Powers are, and I said, "I don't know. I have seen statements about some of the war acts that they have done and I know about the Cuban Powers by newspaper, by releases that have been done up to that date."

Q Go ahead.

A After that, he called me up about July--no, the end of June, the end of June. He told me--we had another meeting there. We discussed something about the same thing, and he told me that he had somebody that was going to supply explosives to him, and he said--we made an agreement to meet together the night before he had the explosives, and we did it. And on July 2nd--I think in July--the beginning of July or July 2nd or 3rd or 4th--the beginning of July, we had a meeting. We had an agreement to meet him at his apartment which is located on 5th Street in the northwest section between 9th and 10th Avenue.

Q What was the purpose of that meeting, Dr. Bosch?

A To deliver me a box of explosives.

Bosch - direct

Q Did you meet with him at that time?

A Yes, sir. I was there with Mr. Morejon and myself. We parked in the parking lot for the building where he was living, and he was there and he gave it to us--a box of, I think it's about 50 pounds of explosives, because it is similar to the one that have been shown here which everybody says was 50 pounds.

Q What did you do then?

A Then I took the explosives and with Morejon I drove to 2000 Northwest 35th Street where my sister is living.

Q What happened there?

A I put the explosive there in the closet and I left. I had a conversation with my family. There was a family conversation. And I left.

Q Then what was your next contact with Mr. Morales?

A The next contact was in August. After that we had another coffee, because we never--every week or twelve days he called me up and we have another coffee meeting there in that restaurant that I

Bosch - direct

Q Did you meet with him at that time?

A Yes, sir. I was there with Mr. Morejon and myself. We parked in the parking lot for the building where he was living, and he was there and he gave it to us--a box of, I think it's about 50 pounds of explosives, because it is similar to the one that have been shown here which everybody says was 50 pounds.

Q What did you do then?

A Then I took the explosives and with Morejon I drove to 2000 Northwest 35th Street where my sister is living.

Q What happened there?

A I put the explosive there in the closet and I left. I had a conversation with my family. There was a family conversation. And I left.

Q Then what was your next contact with Mr. Morales?

A The next contact was in August. After that we had another coffee, because we never--every week or twelve days he called me up and we have another coffee meeting there in that restaurant that I

Bosch - direct

mentioned before. And also there we make another arrangement for another delivery. That was in August 11 or 12th or 13th, around there; around the 12th or 13th was that arrangement.

Q Did you meet for the purpose of accepting such a delivery?

A Yes, sir, I did.

Q At what place?

A It was at 1150 Southwest 1st Street, the big parking place there.

Q Dr. Bosch, what was your intended purpose for this explosive that you were receiving from Mr. Morales?

A Will you repeat that?

THE COURT: What did you intend to do with the explosives or what was your intent in receiving this dynamite from Morales?

THE WITNESS: The intent of getting the explosive was for the cause that we were working for.

BY MR. GREENSPAHN:

Q What were you going to do with the

Bosch - direct

explosives, Dr. Bosch?

A Send it down to Cuba.

Q What did you do after you received the second package from Morales?

A In that opportunity I was with Morejon, also. He arrived in his car, I arrived in my car. And he came in about--it was nine or nine-thirty--the exact time I don't remember now--and he came in in his red Corvair Chevrolet. He gave me the--he transferred from his car to my car another box of this explosive, and Morejon took his car, went away, and I took my car, and I brought the explosive to my sister's again, to my sister's home.

Q When is the next time that you saw Morales?

A The next time I saw Morales was in August, at the end of August. I think it was the 27th or 28th.

Q At what place did you see him? Where?

A I think it was at the same place, 1150 Southwest 1st Street, the parking lot there.

Q What transpired at that time? What

Bosch - direct

happened then?

A At that time? In the previous appointment he gave me another, a third box of explosives, and we had a little conversation there, and I took it again to my sister's house, the box, put one on top of the other.

Q Then what happened? When did you see him again?

A Then I saw him on September 10th.

Q At what place did you see him?

A I saw him on September 10th in his apartment, in the morning.

Q What was the nature of the conversation you had with him at that time?

A At that time I told him that this explosive needed to be checked today, because we had an experience before that they send explosives and sometimes they don't work.

Q When you say "send in" where do you mean, sir?

A Cuba. And I told him that this explosive, this material needed to be checked, and I

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would like that he do it for me. It was about between 9:00 and 10:00 a.m. on September 10. He said, "All right, Orlando. I am going to do it. Let's make an arrangement."

I said, "Listen. Where are we going to test it?"

He said, "In the canal behind the airport."

I said, "All right. I am going to have this in my home, in my car, the three boxes of explosive that you have given to me, and I will also have the detonators and the fuses and we can go there and check it. I will expect you in my home about eight o'clock that date of the 10th of August."

Q Did he come to your home at eight o'clock?

A On the 10th of September. Excuse me. Yes, sir. About eight o'clock he showed up in his car, and I told him, "All right, Morales. Let's go. Let's go in my car where the explosives are placed. You drive because I don't know we are going to take it to test it."

Bosch - direct

He said, "All right." And we went both in the car.

Q Where did you go?

A We drove around behind the airport, and after we were driving about fifteen minutes--ten or fifteen minutes--he said, "Orlando, I have lost the place where I used to test this explosive," and we kept driving and about four or five miles in the dark--a very dark place--no lights--in the canal we came down the cars. He pulled, I think, a piece of a stick from each box. He pulled a stick--he put a detonator with a fuse, lighted it and throw it some place, a little piece. He throw it some place out of there and it didn't work. The detonator exploded but the dynamite didn't do it because the noise--it wasn't a big explosion. It was just the detonator explosion.

Q What did you say to him and what did he say to you at that time and at that place?

A At that time I said, "Oh, this is a shame, Morales. We have a hard time to get this explosive, and now it's not any good."

Bosch - direct

He said, "I cannot explain myself, Orlando. I have got to see the guy that provided this to me and I am going to ask for the \$300 back that I have given him for that, because every delivery that he gave it to me, I gave him \$100." And he said, "I am going to ask for that \$300 and give it to you back."

I told him that I feel mad about it. I said, "Morales, in this black market we have to work. You better don't say anything. Let's see if you can get something better."

And at that time also I started to feel suspicious, started to suspect his honesty working, him working with us.

Q Then what did you do, if anything?

A After that we came back to my home. No. I throw away the three boxes. I said, "Let's throw this. This is not going to work." He was agreeing with me and we threw the three boxes in the canal there some place behind the airport.

Q Then what did you do?

A We came back to my home and he took his

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car. We had a little conversation there and he took the car and he drove it home. And after that, after he left, I went to the East Coast Fisheries parking lot.

Q Why did you go to the East Coast Fisheries parking lot? First, tell us where that is.

A The East Coast Fisheries parking lot is at the river and West Flagler underneath the bridge, the right side of the bridge there coming from the southwest section to downtown.

Q Why did you go there on that occasion?

A Because in that occasion, on the 10th of September, I had a meeting with Ernesto in that parking place.

Q Who is Ernesto, Dr. Bosch? Can you describe him to us?

A Ernesto is the military chief of the Cuban Power. He is a short fellow, about five four or six or--five inches or five and a half, dark as I am, an athletic complexion.

Q How long have you known this Ernesto?

Bosch - direct

A I met him about two years ago in the Anguilla Island in the Bahamas. At that time he was not using the name of Ernesto.

Q Have you seen him between that time and September 10 of 1968?

A Yes, sir.

Q Have you publicly been with him--

A No.

Q --in that period of time?

A No, sir.

Q Dr. Bosch, are you Ernesto?

A No, sir. I am Dr. Orlando Bosch.

Q Do you know, Dr. Bosch, the true name of Ernesto?

A Yes, sir.

Q Will you tell us who it is?

A Do I have to?

Q Yes, sir.

A His name is Pablo Vega.

Q Do you know where Pablo Vega is?

A I don't know, sir. Maybe he's in Cuba, maybe he's in the Bahamas, maybe he's in Mexico. After

Bosch - direct

his last press release here, he left.

Q Let's go back to the night of September 10th. What did you do at the East Coast Fisheries parking lot?

A I told Ernesto, because I received a message from him, that the explosive that I am supposed to give to him that night at 12:00 o'clock p.m. was not any good. We tested it and it wasn't any good. I feel sorry so far. And at that time, also, keeping in the conversation of September 10 midnight, he asked me for a recoilless.

Q For a what?

A For a recoilless 57 millimeter rifle.

Q Go ahead.

A And I also tell him--I asked him, "Do you want it taken down to Cuba?"

He said, "I don't know. I still don't know what I am going to do with this, Orlando, but maybe I am going to need it for propaganda facts, and I would like to use it--I would like you to tell the M.I.R.R. boys that I am going to need them, also.

Q Did he tell you at that time specifically

Bosch - direct

what use it was going to be put to?

A At that time he told me that he had information that Communist ships have been coming to the harbor of Miami and he would like to make a shelling or do a shelling against this ship for propaganda. And also he said, because he is a little bit romantic, "Orlando, somebody has to save the dignity of the freedom wars, and somebody has to punish these Communists for going through the Czechoslovakian territory frontiers, and I am going to do it."

Q Did you have any further conversation at that time?

A At that time I told him, "Ernesto, we have been talking. You were going to appoint me as a political delegate and, you know, we always, you and me, have been opposed or opponents to any terrorist or war or whatever in the United States, and this is going to be embarrassing, especially in my situation."

And he insisted again about the morals, the freedom and to punish the people and so on and so

Bosch - direct

forth.

Q Was that about the conversation that evening?

A That's about all he said.

Q Is that about all of the conversation that evening?

A Yes, sir, just about all the conversation. And also I was not alone with him. There was also another man which is the one that came to my home earlier in the morning on the 10th and he asked me--told me that Ernesto wants explosives at 12:00 o'clock p.m. And when that man came to me with that message, that is why I came to Morales' house about 9:00 or 10:00 o'clock a.m.

Q When was the next time that you either talked to Morales or Ernesto, in sequence? When was the next time you talked to either one of those?

A With Morales, after the third delivery. That was in August or the end of August--August 27, I think. I saw him--maybe I had another cup of coffee in the same restaurant, but I don't know. I don't remember for sure. And also the next time I saw him

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was when I went to ask him to help fix the cannon.

Q What was the date that that occurrence took place?

A That was about September 15.

Q Now, sir, did you have occasion to go to the home of Aimee Miranda on September 15?

A Yes, sir.

Q At what time of the day or night did you go?

A I went there about--it was over nine o'clock, I think, p.m.

Q And when you arrived at Aimee Miranda's house, who was present?

A Morejon and Balan were there and Aimee was also there.

Q What were Morejon and Balan doing at that time?

A At that time they were working on the cannon there.

Q What was Aimee Miranda doing when you came into her house?

A She was in the bedroom there reading

Bosch - direct

some magazine or I don't know what it was.

Q Had you been to Aimee Miranda's before that?

A Yes, occasionally.

Q What did you do when you got to Aimee Miranda's house?

A I saw Prieto and Balan working on the cannon. And I just put my knee on the floor, also, and started to see what they were doing, and I give them my advice, also. I wasn't very good, but anyway, I got mixed up with the work on the cannon.

Q Did you try to help them in their work on the cannon?

A Yes, sir, I tried to do it.

Q For how long a period of time after you got there did you continue to work on the cannon?

A I think it was more or less an hour or an hour and fifteen minutes.

Q Were you able to repair or fix the cannon yourself?

A We were not able, sir.

Q What did you do?

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A Then I went to--I told Prieto I'm going to ask--I'm going to see Morales to see if he comes back and fixes it, and Prieto told me, "Orlando, you have told me that you are suspicious about Morales, of his infidelity or his dishonesty with us, acting with us," and I said, "Yes, at least suspicious, but I don't think he is going to hurt us, anyway. The cannon doesn't work."

And I went to see Morales, anyway, and I told him, I asked him, "Take your tools and come with me."

And we came back to Mrs. Miranda's apartment and Prieto and Morejon were still there, and he started to work on the cannon by himself because we have the impression that he is an expert in that.

Q Did Morales at that time make any comments about either the 57 millimeter rifle or about the shell that was to be used in the 57 millimeter rifle?

A Yes, sir.

Q What did he say?

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A About the 57 millimeter cannon, he said that it was in not good condition; that he could fix it only for one shell, one shoot. And after he was working there, he said that. And also he said, when he took the shell in his hand, he said it was not a good shell; it was a practice shell, a fragmentation shell. And with that shell, whoever is going to use the cannon is not going to do any damage.

I said, "That's all right. That is what the guy is going to use. That's what he wants-- for propaganda--anti-Communist propaganda."

Q Did there come a time then when the 57 millimeter was pronounced by Morales to be ready for use?

A Yes. After he finished he said it was ready for use for one time.

Q Then what happened?

A Then Prieto and Morejon and Balan left in Balan's car; and I left with him to get in my Chevy, in my car--the Chevy '61 or '62--and I went with him to Mr. Paulino Gutierrez, and I told Paulino that I wanted him to accompany us. He didn't ask what

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for, and we didn't tell him why he was supposed to accompany us. And we went in Paulino's automobile. His is a better automobile--I think it's a '67 or '68--and we went to the Rancho Luna Restaurant.

Q How long did you remain at the Rancho Luna Restaurant?

A We stayed about an hour, I think, because it was late. We were sitting there, and Morales asked for a beer and Paulino asked for another beer. I asked for dinner and he said he has to go to the bathroom.

Q Who said that?

A Morales. And I told Paulino after he went back to the rear of the restaurant, I said, "Paulino, go and check him. I am a little suspicious about him."

Paulino went and he was in the bathroom there and he came back with Paulino. They was with each other.

Q When you left the Rancho Luna Restaurant, where did you go?

A Well, we left the Rancho Luna

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Restaurant, we went to the MacArthur Causeway.

Q What occurred at the MacArthur Causeway? What did you do?

A At that time we passed by the MacArthur Causeway until the first light. We turned to the left at the light that shows a road that goes to one of the small islands on the left side of MacArthur Causeway, on the north side of MacArthur Causeway. We turned to the left, turned around on MacArthur Causeway, and we were coming back to Miami and we saw this Chevy, an old Chevy--a fifty-some--light green, I think it was, and I say to Balan and Morejon--I saw Balan and Morejon turning there, and I also saw from the rear, from the back seat of the Chevrolet and I saw what I imagine was--

Q Do not imagine anything.

What did you then do?

A So we passed the car, the Chevy that we were talking about, and we parked in the Miami Herald, around the Miami Herald parking.

Q How long did you remain there, if you remember?

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A We remained there, I would say, an hour and a half or two hours, because I went to sleep. I was really exhausted and tired and I went to sleep. And when I was sleeping, Morales waked me up. The explosion happened. He said, "Orlando, the explosion happened." We left the place.

And Paulino and myself left Morales in his apartment and we came to Paulino's house where my car was, I took my car and went home.

Q Dr. Bosch, when Morales woke you up in the automobile, what did you say, do you recall? Were you excited?

A I don't remember if I was excited or not. He waked me up and he communicated to me that an explosion occurred and we left. I don't remember, sir, if I was excited or not.

Q Did you have occasion to see Morales after that event and before this trial, sir?

A Yes, after that I saw him again.

Q Where?

A Twice. First was at my home where we had a conversation about the shelling, because I was

Bosch - direct

playing phoney with him because he was insisting on asking me if Ernesto was in the place, if Ernesto is the one that shoot the Communist ship, and a lot of questions, but I was suspicious with him. I tried to play with him about what happened and so forth, and I also gave him instructions--to Prieto to do the same thing, try to play around with him.

After that time he was there in my home for several minutes and he came to the M.I.R.R. office, which is in the old Jose Marti Building, and asked me if I could see the man that owns the business where the bomb exploded.

Q What response, if any, did you get?

A I told him I know that the man--the second name of the man was Valdes, I think, and I told him Paulino knows him or is a friend of his. And we were willing to talk with this man and he asked me about who was there in the meeting, and I told him the leaders in the factory where there are numerous Cubans working. And he told me that he had an extension or whatever it is in his trial and I again told him if there is something we could do, let

us know.

Q Was there anything else significant at that conversation?

A No. I saw Prieto talking with him at the Jose Marti Building.

Q Were there any further conversations?

A No. After that last conversation-- I don't remember if we had another conversation until-- after that we were in jail. I don't remember any specific conversation after that.

Q Dr. Bosch, I am going to show you Government's Exhibit No. 20 and ask you if you have seen this before.

A Yes, sir.

Q What is it?

A That is granules that are used for anesthesia and also for a rebreather to go underneath the water. That is what he told me. I know it's for anesthesia.

Q Where did you get it?

A He gave it to me with a rebreather.

Q With a rebreather?

A Yes, sir.

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Q Did you ever use that rebreather?

A No. We couldn't use it because it was non-functional. It wasn't in any good condition. The rebreather, he told me somebody had stolen it from the CIA when we were working with it. I don't remember anything else.

Q Dr. Bosch, I am going to show you Government's Exhibit No. 73-C and ask you if you have seen that before.

A Yes, sir.

Q What is it?

A It's the Japanese ship, the name is the MIKAGESAN MARU.

Q A photograph of the ship?

A A photograph of the ship.

Q Where did you first see that photograph?

A I used to receive all the press and all the leaders here--the anti-Castro leaders here in Miami--and we used to receive all these press releases and the pictures of all the ships that had been damaged for trading with Castro here.

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Q How did you receive that picture?

A I received it by mail.

Q I show you Exhibit 73-A, marked (A) and (B)1, but one object. I ask you if that is the envelope in which you received that photograph.

A Yes, sir. We were receiving it in the P. O. box of the M.I.R.R.

Q Was there anything else in that envelope when it was received by you?

A There was a statement and a picture, but I received more than this one.

Q I show you Government's Exhibit 73-D and ask you if you have seen that before.

A I have seen this before, sir.

Q Where have you seen it?

A When I received it by mail, because I recognize here--the Ernesto sign.

Q Do you know who else would receive copies of the things that you have identified as Exhibit 73-A, B and C?

A Yes, sir. All the leaders, all the revolutionary group, all the press. A lot of people

Bosch - direct

received this picture and this statement.

Q Dr. Bosch, have you made any public expression dealing with the use of force and violence and bombings in the Miami area? Do you understand my question?

A If I have done any bombing or if I have done some--

THE COURT: No, sir, that's not the question. He didn't ask you if you have done any. He asked you if you have made any public statements regarding such activities in the Miami area.

THE WITNESS: Yes, sir, we have made some.

BY MR. GREENSPAHN:

Q I show you what purports to be the Miami Herald of Wednesday, September 25, 1968, Page 19-A, and ask you if the statement indicated with the red pen is a true recapitulation of your words. Could you say to me what does "rapped" mean here? "Bosch also rapped." Rapped, r-a-p-p-e-d.

A What does that mean?

Q In other words, you spoke against. Is

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that a fair statement?

A Yes, sir.

Q Does that fairly state it, Dr. Bosch, without reading the whole article?

A Yes, sir.

MR. GREENSPAHN: Mr. Clerk, will you kindly mark this for identification?

BY MR. GREENSPAHN:

Q I show you a copy of the paper PATRIA dated September 25 and ask you if the article underlined in red fairly states your position.

THE COURT: Is that a statement of his position by some third person or is it a statement purported to be made by him as to his position?

MR. GREENSPAHN: It purports to be a direct quote of Dr. Bosch.

THE COURT: All right.

BY MR. GREENSPAHN:

Q That is a direct quote, isn't it?

MR. BIERMAN: Your Honor, I am going to object to both this exhibit and that as being hearsay. The mere fact that it is printed in a

Bosch - direct

newspaper doesn't change it from hearsay. There was nobody present who was reporting it.

If he wants to tell us what his position is on local bombings, I'll be glad to hear it, but what he said about it before is neither relevant nor proper.

MR. GREENSPAHN: Your Honor, I think that is an excellent argument. He made it when he offered the very same kind of evidence.

MR. BIERMAN: When I offered it, your Honor, it was an admission. When he offers it, it's hearsay.

MR. GREENSPAHN: Mr. Clerk, will you mark this along with that other article?

THE COURT: Well, let's get them marked and then we will have it offered and then we will rule on it.

MR. GREENSPAHN: I would ask that Exhibits for Identification 4 and 5 be received in evidence either individually or as a composite exhibit.

THE COURT: All right. Let me look at

Bosch - direct

them.

Gentlemen, I am going to sustain the Government's objection to the two articles.

BY MR. GREENSPAHN:

Q Dr. Bosch, have you ever participated in or in any way connected yourself with any acts involving any of the local terrorist activities in Miami?

A No.

MR. BIERMAN: Your Honor, I am going to object to the question. I will stipulate that he is not charged with this crime. We have not attempted to prove the crime that is being set out and then being torn down.

THE COURT: Well, first of all, your objection is too late. And if for no other reason, I would overrule it, but I am going to overrule it, anyhow.

BY MR. GREENSPAHN:

Q Dr. Bosch, are you acquainted with Special Agent George Evans Davis of the Federal Bureau of Investigation?

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A Yes, sir.

Q For how long a period of time have you known Mr. Davis?

A Quite a few years. I think about seven years.

Q Without going into each and every meeting and without taking the time to go into great detail, are there any significant events that you recall with regard to Agent Davis that have occurred in meetings with him over the last several years?

A Yes.

Q If so, will you start with the one that, in terms of time that is furthest removed from the present time. What was the first significant event that you recall?

A The first significant event was several months after we came from Cuba we published some pictures, pictures of guerrillas there, and we made a statement to the Miami Herald. And he went to my home and he asked me some information about what was going on down there. I related to him a great deal of the information and we had some other

Bosch - direct

conversation which is nothing important about the situation down there.

MR. BIERMAN: I apologize for repeating the objection, but I do not see any relevancy to this meeting with Mr. Davis.

THE COURT: I cannot tell the particular relevancy. I assume counsel is probably intending to show that there is bias or prejudice or hostility of some kind with respect to that particular person. I don't know.

MR. GREENSPAHN: That is quite right, sir.

THE COURT: All right. Go ahead.

BY MR. GREENSPAHN:

Q Now, Dr. Bosch, I don't want to belabor this and I don't want to go into great detail, but will you tell us of any instances when something unusual or significant occurred in your relationship with Mr. Davis.

A All right, sir. In one occasion some air raids, I think, were done in Cuba. Mr. Davis came to my office and we had a rough conversation at

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that time. At that time he threatened to jail me and I answered in the proper manner, and he left the office.

Another occasion was when he installed-- I asked him--we discovered an electronic microphone in the wall, inside the wall of the M.I.R.R. And he came to the--he passed by the office to ask me something and I refused to answer because of that discovery. We found that microphone, and I was complaining about him of that. I took a picture of that microphone and I make a press release.

And also after the last trial that we had the judge ordered him to return to me my address book and all the property that he had, that I had on me when I was arrested in Hartford, Connecticut. And he came to the office there and he said, "Here are your things. I want you to know that we have not ended with you, and I will put you in jail, anyway."

Q Since that time have you had contact with him?

A I have seen him and all of the agents for the last six or eight months behind me and following

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me, but I haven't talked to him until he arrested me in my home.

MR. GREENSPAHN: May I have one minute, your Honor?

THE COURT: Yes, sir.

BY MR. GREENSPAHN:

Q Of your own knowledge are you aware of any acts on the part of Agent Davis toward any of the other members of the M.I.R.R. that are intimidating or threatening in nature?

A Will you repeat the question?

Q Are you aware, sir, personally of any acts by Mr. Davis toward any other members of your organization that were of a threatening nature?

A Yes, he has done that. Mr. Garcia--

MR. BIERMAN: I will object to that because that has got to be hearsay.

MR. GREENSPAHN: I asked him if it was personal.

THE COURT: I am going to sustain the objection because, first of all, this is not the best evidence. Secondly, it calls for an opinion and

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conclusion of this witness and the mental processes of both the other participants and, therefore, I think it is highly objectionable and I will sustain the objection to it.

MR. GREENSPAHN: Now, your Honor, I propose, with the Court's permission, to publish Exhibit 89-A. However, I will be more than happy to wait and do it after the cross examination is completed.

THE COURT: It is perfectly all right. If you desire to do that, you may do it now. I will leave it up to you.

MR. GREENSPAHN: I was going to do it in the interest of time. I don't know how long cross examination is going to take. This is a four-page item.

THE COURT: You can do it after the examination of the witness has been concluded.

MR. GREENSPAHN: I believe that will be the only exhibit that I will wish to publish. However, I would reserve the right, although I doubt if I will do it, to publish Exhibit 75 as well.

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THE COURT: All right, sir.

MR. GREENSPAHN: Your witness.

CROSS EXAMINATION

BY MR. BIERMAN:

Q You are no doubt familiar with what has been marked as Government's Exhibit No. 75, are you not, sir?

A Yes. This was about four or five years ago.

Q About four or five years ago?

A Yes, sir.

Q And you are the same Dr. Orlando Bosch that signed that?

A Yes, sir.

Q All right.

A That was given to the Cuban Committee or the committee for the Cuban Liberation that has a place in Connecticut. They asked for a plan of the Cuban liberation, and we just gave that to them about four or five years ago.

Q And this that you typed, did you, sir, type this portion "Attack on Vessels Trading with

Bosch - direct

Communist Cuba"?

A Yes, sir.

Q Was that one of the goals of the
M.I.R.R.?

A Among the others, it was.

Q And you said, sir, in your testimony,
that you completely rejected the proposal of Ricardo
Morales to bomb the Russian Embassy because you
did not want to commit any acts to embarrass the
United States, is that right, sir?

A Absolutely right, sir.

Q Were you on MacArthur Causeway on the
night that the POLANICA was fired upon?

A Yes, sir.

Q You are aware--

A I was aware, sir.

Q You were aware that this was a vessel
in a United States port?

A Yes, sir.

Q And you were aware that it was going
to be fired on?

A Yes, sir.

Bosch - cross

MR. GREENSPAHN: If it please the Court, this is argumentative.

THE WITNESS: And I was aware and I did--

MR. GREENSPAHN: May I have a ruling before you continue, sir?

THE COURT: Well, I think you have proceeded far enough.

BY MR. BIERMAN:

Q How many boxes of dynamite did you receive from Ricardo Morales?

A Three boxes.

Q Do you recall, sir, that on July 2nd he gave you two boxes of 100 pounds?

A On July 2nd he gave me one box, sir.

Q And when was the next time that he gave it to you?

A The next time was August. I think I said here before August, around the 11th or the 12th.

Q At the 1150 Building in Miami, is that right, or where was it?

A At the 1150 Building in Miami.

Bosch - cross

Q When was the next?

A It was August, about the 26th or the 27th he gave me the third box.

Q What about the night afterward, sir?

A The night after what?

Q After the second delivery, did you not return to the 1150 Building and receive another 50 pounds?

A No, sir.

Q You did not?

A I did not.

Q On April 25, when you met Mr. Morales on the street, who was with you? Who was driving your car?

A I was driving my car.

Q Was Mr. Gonzalez with you? Wasn't he driving your car that day?

A At that time? I don't know. I don't recall he was with me or not, because he used to go with me almost every day, but I don't recall if he was with me or not. In front of us were Balan and Morejon, across the street where Balan lived.

Bosch - cross

Q Who made up the signal to whistle on the telephone when Morales was going to contact you?

A I don't recall whether it was him or me.

Q But that did occur?

A Yes, sir.

Q Did you tell Morales that you were, in fact, Ernesto?

A I didn't tell him, because I was not.

Q Just answer my question.

A I didn't tell him that I was Ernesto.

Q Did you tell him that you were waiting for some more explosions so that you could make your grand entrance?

A What is the last word?

Q So that you could make your announcement of being appointed by Ernesto?

A No, I didn't tell him anything about that.

Q Do you recall, sir, on the evening of September 16th, the early morning hours, when Mr. Morales awakened you and told you that the shelling had

Bosch - cross

been completed, do you recall saying, "I hope we killed some Poles"?

A I didn't say that, sir.

Q What were you doing with all these explosives all this time?

A The three boxes that he gave to me, I have told here that I have kept them in my sister's house, and I was going to give it to Ernesto at 10:00 or 12:00 p.m. at the East Coast Fisheries.

Q Do you mean the dynamite which you received in July you were going to give to Ernesto on September 12th at midnight?

A When you are going to deliver dynamite or any kind of explosive or war material, you cannot do it box by box. You have to wait until you have some kind of an amount to make it worth to make the trip down to Cuba. That is why I was holding the three boxes.

Q Do you have any idea, sir, how these eleven sticks of dynamite marked as Government's Exhibit 45-A came into what is marked Government's Exhibit 45, which is this canister, the rusty canister?

Bosch - cross

A. I don't have any idea, because I didn't check anything, neither before or after.

Q. You had no idea when you were first receiving it that it was dummy dynamite, did you?

A. I didn't have any idea about that.

Q. And you were to supply it to Ernesto, is that correct?

A. Yes, sir.

Q. Had you previously read any press releases allegedly signed by Ernesto claiming credit for bombing ships?

A. If I have done? No.

Q. Have you read them?

A. I have read that, yes, sir.

Q. You read Cuban newspapers?

A. Yes, I have read it.

Q. Did you believe them or did you disbelieve them?

A. If I believe?

MR. GREENSPAHN: If the Court please, this calls for a conclusion on the part of the witness.

THE COURT: I am going to overrule the

Bosch - cross

objection.

THE WITNESS: Make the question again?

THE COURT: The question was, did you believe or disbelieve the articles which you had read in the Cuban newspapers in which Ernesto claimed credit for bombing the Communist ships?

THE WITNESS: I believed because besides his statements, official reports came in. I have seen in the newspaper official reports.

BY MR. BIERMAN:

Q So then, sir, after having read these releases which you believed, you agreed to supply to him additional explosives, is that right?

A I think--yes. I will say yes. Everybody that does anything against our enemy I will supply all war material on that. I won't deny that in any place--in the United States, in the world, because I think that is my duty to do it.

Q That would include Great Britain, Japan and Poland, is that right?

A Whoever it is. Whoever is Castro's ally is not our friend, and we don't have to have any

Bosch - cross

consideration with them. And also we are doing this because we have within the United States Government making a lot of diplomatic push against those countries and they didn't pay any attention and that is why I sympathize with that and I didn't do anything with those facts. I just sympathized with those.

Q When did you last see your friend Pablo Vega?

A When?

Q When?

A The last or first or how many times?

Q The last time you saw your friend Pablo Vega.

A That was about a week before I held a press conference where I accepted the political delegate. That was September 27, so it must have been around the 18th or the 20th of September.

Q Has he gotten in touch with you since you have been arrested?

A No, sir.

Q I show you Government's Exhibit 79, Doctor, and ask you what this is.

Bosch - cross

A This looks like a hood.

Q That was in your automobile. Do you recall that?

A I am sure it was not in my automobile, but I am not going to deny this. I had eleven, not two. This was not in my automobile, because I searched my automobile every day, because frequently I saw the FBI agents going into my automobile from the last part to the front part.

Q This was not in your automobile?

A No, sir.

Q Nor was this one?

A No, sir.

Q Where did you keep your eleven of these that you had?

A I am going to tell you: One time in August Ernesto was in the Bahamas and received a message that something that was planning down in the islands, and I sent a message to him that Mr. Bert Quint, Q-u-i-n-t, is in charge of the CBA for Latin America, and this guy approached to me through Mr. Purcell, which is an American gentleman, president of

Bosch - cross

the American Committee for Cuban Liberation.

MR. GREENSPAHN: Excuse me for interrupting. I think it is incumbent upon me to say that the doctor said CBA, and I know what the answer to this is. I think he is unfamiliar to some extent with our language and it requires me to say what he is thinking of. I know what he said.

THE WITNESS: The Columbia Broadcasting System.

MR. GREENSPAHN: That is not the CBA.

BY MR. BIERMAN:

Q CBS?

A CBS. Excuse me.

THE COURT: All right, sir.

THE WITNESS: And I sent a message to him. This man wants to take a picture of him, take a statement, take pictures of some of his people doing something.

BY MR. BIERMAN:

Q Could you answer my question first, directly, and then explain it--where these hoods were?

Bosch - cross

A This one?

Q Yes.

A I don't know where that was. I see it here.

Q You said you had eleven hoods. Where were they?

A Let me continue.

Q Would you answer and then explain?

A Where they were?

Q Yes.

A I think I have it in my home, those eleven.

Q Do you still have them?

A No, I don't have it, because I went to the press conference and I sent them with some of the boys, whoever went down to meet him, with this press man, eleven of those, but they didn't return it to me. I didn't have any of those. I had eleven, not two, but I didn't have one in my car, because every day they searched my car. Every single night the FBI car was sleeping even in the corner, in front of my house or behind my house, and I was not going to be so

Bosch - cross

stupid to have anything in my car.

Q These hoods, then, your testimony is, were not in your automobile?

A Absolutely sure, sir.

Q And they were not in your house?

A Absolutely sure. If I had eleven, I don't have to deny it.

Q What were they for?

A These eleven I mailed down to Ernesto, I told you, in the Bahamas.

Q Were any of the eleven that you mailed to Ernesto black?

A No; they were blue. Lighter than this, I think.

Q Do you recall, sir, your discussion with Mr. Morales in reference to the MIKAGESAN MARU in which he asked you why you had not previously claimed credit for it?

A If he asked me I didn't answer anything, because I talked with him about all those sabotages to shipping, just in general comment. I didn't tell him anything. I didn't answer. If he asked me, I

didn't answer anything.

Q Let me get one thing straight, Mr. Bosch. Your objection to local bombings means in stores, is that right, in the general community?

A Anywhere, sir, in the United States.

Q But it doesn't involve--

A Even that shelling that I didn't approve of, but he was symbolic and he did it and he accepted it.

Q You did not approve of it?

A I didn't approve it, but I don't command Ernesto.

Q Do you recall, sir, a conversation with Mr. Morales in your home that you previously testified to?

A Some general conversation, but you can recall to me and I will say yes or no.

Q Do you recall saying to him, "Well, boy, well, when you have these things before the people, the reaction varies, but in general there is sympathy. Many deeds, Morales. We have hit very hard. One ship and another ship and another ship and another ship"--and then some unintelligible words--

"and the explosion. And the hit there and the hit here, I believe that we have worked intelligently. I believe that we have developed this matter intelligently."

A May I read that in my own language, please?

Q Surely.

A I think in general I told him, but the only thing--here, when I say "we hit very hard one ship and another ship," when any Cuban exile does an action against Castro he is lying. All the Cubans say "we." It's like a common expression we have.

Q It wasn't you? Just the Cuban exile community?

A Not the community. Cuban Power.

Q Cuban Power meaning the organization known as Cuban Power?

A Yes, sir.

Q What connection, sir, did the M.I.R.R. have with Cuban Power?

A No connection.

Q When you accepted the instructions of Ernesto to supply two boys from the M.I.R.R., did you

give him access to your people?

A That does not mean any access. It is a revolutionary favor. He asked me, but these boys didn't have any relation. They didn't belong to any Cuban Power. He just gave an instruction to the M.I.R.R., to the boys to go where he was with the cannon.

Q Did you, sir, on August 22, go to the home of Barbaro Balan and receive a package of dynamite there?

A I went to Barbaro Balan about August--the middle of August--and he told me he and Benitez and Marcos told me that Morales was there with a box of explosive, but they didn't accept it, and they told him to take it away because we have a car of the FBI in the parking lot there and we have another car of the FBI there in the corner, as usual.

Q So then--

A They didn't accept the box. That is what they told me.

Q Then they did not bring it into the house since they didn't accept it, is that right?

A I don't know if they did or not, but

Bosch - cross

they told me that they didn't accept it. That means they didn't get it into the house, I imagine.

THE COURT: Gentlemen, I am going to call a recess for just a few minutes.

We are going to be in recess for about five minutes. During the recess, of course, the same instructions are still applicable.

We will be in recess for about five minutes.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had at the Bench out of the hearing of the jury as follows:)

THE COURT: Mr. Gutierrez, I have been advised by Mr. Greenspahn, your attorney, that your parents have just come in and that you want me to excuse you from being in the courtroom so that you can visit with them in the outside courtroom. Is that correct, sir?

MR. GUTIERREZ: Yes, sir.

THE COURT: Are you willing to waive

Bosch - cross

your presence in the courtroom during the period of this trial knowing that you have the absolute right to be here if you so desire, in order to visit with your parents?

MR. GUTIERREZ: Yes, sir.

THE COURT: So that the record will be complete, does counsel approve of that?

MR. GREENSPAHN: Yes, sir. Thank you.

THE COURT: All right, Mr. Bierman. You may proceed.

(Thereupon the following proceedings were had in open Court in the presence of the jury:)

BY MR. BIERMAN:

Q Dr. Bosch, you testified that you always saw agents in and about your car. Did you ever see anybody take anything out or put anything in?

A I don't know, because I seen that at midnight. I have seen that at midnight and the time in the time usually after twelve o'clock. And I don't know if they put anything in or took anything out.

Bosch - cross

Q Did you ever find anything in there in the morning when you searched it? You searched the car every morning, you said, sir?

A Yes.

Q What did you find?

A When I searched? No, I didn't find anything.

Q So then, to your knowledge, nothing was either put in or taken out of your car by the FBI?

A Yes, but the morning that my car was searched, I couldn't search before, because they just arrested me in my home that morning. I couldn't go to my car. I don't know if the night before they put that hood there.

Q But on the other nights and mornings that you searched, you never found anything extra in your car, did you?

A I never found anything in my car.

Q So it was just a thought on your behalf?

A Not a thought. If I see somebody

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Bosch - cross

working on my car, in the trunk, I have to search to see what happened.

Q Was there something? Were they opening your trunk?

A Yes, all the time. I saw twice.

Q You don't lock your car, sir?

A My car is broken. It's a two-door Chevy and the two doors don't go up but even if I lock--I lock the trunk, and I have seen them opening, because it doesn't make any difference.

Q How do you know they are FBI men?

A Because one time I saw Mr. Davis in the trunk of the car, and one time I saw another agent--and I don't know his name--but if you show me, I can tell you who it was.

Q Did you file a complaint with the police or did you file a complaint with the FBI?

A I have too many things to do, sir, to lose my time in that.

Q It wasn't important enough to do that?

A Practically, maybe. According with the law it would be right to do it, but practically I

Bosch - cross

know nothing was going to happen.

Q You didn't wait out there and take any pictures of it or anything, did you?

A No, I didn't want any friction with the authorities and I didn't want any friction with the FBI.

Q You like to keep a cordial relationship with the FBI?

A Not cordial. Just normal, to avoid friction with them. I had enough trouble with them to make friction.

Q Do you ever recall telling Mr. Morales that you were sorry that the ASAKA MARU exploded in Tampa Harbor, because you would rather it sunk at sea and you could see the Japanese swimming around and going "Eeee eeee eeee eeee."

A No, I didn't tell Morales anything about any specific ship.

Q Nothing about any specific ships?

A No. I make a general comment that I sympathize with all the ships that had been trading with Cuba, but I don't think I went into any

Bosch - cross

conversation about any "Eeee éee eee."

Q Do you recall telling him that you were going to claim credit for the LANCASTRIAN PRINCE because you heard that the authority in New Orleans said that the anti-Castro movement was moving there?

A No, sir, I didn't tell him anything.

Q You didn't?

A No, because I always have a little suspicion about him, and I didn't tell him. I didn't make any comment with him strictly about any particular ship.

Q Do you recall making plans to meet him at his apartment to pick up a case of dynamite?

A The first time I went to his apartment to pick up a case of dynamite.

Q How about in August?

A What time in August?

Q Late August.

A Late August? He gave me--I said before late August he gave me the third box of dynamite in the 1150 Southwest 1st Street in the southwest section. I've told you that.

Bosch - cross

Q There may be some confusion, Dr.

Bosch, between your late August and mine. You said around the middle of August you got a box at the 1150 Building, is that right?

A I said the second box was about the 11th or 12th of August, and the third box was about the 27th or 28th of August.

Q Where was that?

A At the parking lot. The first box was given to me in his apartment at the parking lot, and the other two boxes were given to me in the same place--1150.

Q The 1150 Building?

A 1150, one box at a time, which makes a total of three boxes.

Q But not one day after another? You didn't get one on, you can't remember the exact date, but let's say the 13th and the 14th and another one on the 14th?

A No, I didn't receive any boxes one day after the other.

Q Do you ever recall asking Mr. Morales

Bosch - cross

whether it was dangerous to have it and him throwing down a box and saying it won't explode without the detonator?

A The first time when he gave us the first delivery, I asked him about is it dangerous or not, because there is some different kinds of explosives, and he said no. He said, "There isn't any danger, Orlando." He threw it on the floor of his parking lot.

Q How many boxes?

A One box, sir. I told you four times.

Q Who was with you?

A Prieto.

Q Tony Prieto?

A Morejon.

Q Not Gonzalez?

A No, nobody else was with us. Also he referred that I was with Prieto.

Q On the night, sir, that you were in front or near the Miami Herald Building on September 16th of this year, who was driving the car?

A Mr. Gutierrez.

Q Paulino Gutierrez?

A Paulino Gutierrez.

Q Do you recall whether or not Jorge Gutierrez drove by around midnight?

A No, sir. I was sleeping most of the time. How could I recall it?

Q Do you recall following the wrong car?

A Following the wrong car?

Q Do you recall leaving that spot, circling around Miami, the southwest section, Aimee's house, Tony Prieto's house, and then returning to your spot?

A I think that we did that.

Q For what reason did you do that?

A Because I was sleeping and Morales said--I think it was that way--Morales said the car, the green car that we have been referring to--was parked there passed by, and then we went to all the places and we came back to there.

Q Then did you go back to the spot on the causeway?

A Yes, sir.

Bosch - cross

Q Where you had previously seen Balan and Prieto?

A I don't think we went to him or not. But anyway, we knew they were there.

Q I don't want to put it anyway. I want you to answer my question.

A I don't think we passed by. I think we came back to the spot, but they must be there. You want to know that.

Q Let me call your attention back to Page 23, to the conversation with Morales at your house on the night of the 30th, I believe it was--the 26th, excuse me. September 26. Do you recall saying the following:

"They know that our goal is sincere, that there is nothing false about it. Dammit. But what does not please them is the other, for the other is big. Paul Bethel told me the diplomatic pressure of (obscene) was put on by Spain and Japan in Washington (another obscene) really (obscene) notice that Poland

Bosch - cross

protested greatly, but Japan and Spain did not protest because they are submissive to these people. They are under the boot of Yankee Imperialism. Call me in two or three days so that we can check."

A Yes, sir, at the restaurant--I would like to review--about Yankee Imperialism. That is a common expression that we all Latins have when we talk about this. It doesn't mean anything. About the United States people. It is a common expression for a lot of Latin Americans. It does not mean like Castro says Yankee Imperialism. It is not the same meaning, sir, if you want to know that.

Q As a student and as a leader of anti-Communist activity, you have studied Communist jargon, too, have you not?

A No. At that time when I was a leader in the students, we didn't have any Communism in Cuba, and the spirit what I have is what I am living for, and I cannot talk bad of this country, because part of my life is in this country because I have a child that was born here. I am not going to hurt my

Bosch - cross

own people, my own descendants.

Q "Yankee Imperialism" is a common expression?

A In the Latins, when we talk privately. But whenever we say it in public, that is different.

Q Did you say "Yankee Imperialism" in public or in private?

A What I have told the United States Government I have told in public quite a few times. They are mistaken, they are in error. I have told them many times in many public statements--I have been sincere with the United States Government in telling all those truths, but I don't hide that mystery in my heart about Yankee Imperialism. Never you will read a statement done by me offending the United States, the people of the United States. I don't have any reason for that. In private comment I repeat we say that very often without any offending meaning.

Q You say you went to school in Cuba, is that right, sir?

A Yes, sir.

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Bosch - cross

Q Weren't you called "Ernesto" on the campus when you went to school? Wasn't that a name that you used at that time?

A No. I never used a nickname.

Q You never used the name "Ernesto"?

A There was no reason for that, because at that time we had a democratic government.

Q Was the Batista government a democratic government?

A No. It was a dictatorship.

I was a student, when Batista was here, taking my internship in Toledo General Hospital, and after that I went to Memphis, and after that I went to Cuba and Batista was still in power there.

Q When, sir, was the last time that you practiced medicine as a doctor in the United States?

A I am going to tell you, sir.

Q I don't want you to tell me the reason. I want you to tell me the last time that you practiced as a doctor in the United States.

A The last time I practice as a medical in the United States is when I completed the five years

Bosch - cross

that the American Medical Association--the Florida Medical Association gave foreign doctors to work as a house physician.

When I completed my five years in 1966, I think, I believe, I couldn't work as a doctor or a house physician, and after that I have been dedicated to another honorable job, which is the liberation of my country. And if you want to know more, I can tell you why I have to quit; why I didn't complete the two months.

Q Other than the use of the term "Yankee Imperialism," what protests to Japan, Spain and Poland were you referring to?

A I imagine it was referring to the sabotages to the ships.

Q Do you recall, sir, on the occasion that you questioned Mr. Morales about how good the dynamite was, going to Aimee Miranda's house?

A No, sir, I don't recall that.

Q How about a week prior to that? Did you go there and examine some other explosives which Aimee Miranda had in her possession?

Bosch - cross

where the shell was to be aimed at the POLANICA?

A If I recall, the shell was going to hit the POLANICA?

Q Yes. Where was it going to be aimed?

A I think it was in the ship. No particular place. I don't recall that.

23-2 Q You don't recall? Do you recall saying it was funny in the morning when the Coast Guard was fired for not detecting that?

A I don't recall that, sir.

Q Did you see the Coast Guard boats cruising back and forth?

A I passed there one time, if I recall, and I saw the Coast Guard not going back and forward, because I saw the Coast Guard parking beside the ship, because every time a Communist ship comes here, they have a Coast Guard to watch, to protect it.

Q Do you believe the United States is wrong in trading with Poland?

A No, sir, I don't understand the Government's position, especially when it's a leader. I don't think it's wrong.

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Bosch - cross

Q Do you recall having a discussion with Jorge Gutierrez about where he circled the Polish ship to convince you that the United States really had Communist ships coming here?

A What is that? Make that again?

Q Do you recall having a discussion with Jorge Gutierrez in which he argued with you and insisted that Polish ships come to the United States?

A He made that statement, "Look here. A Communist ship is coming here." That was maybe several times, I suppose, or one occasion.

Q Did you ever have a detonator in your car?

A If I had a detonator in my car? If I had, I didn't know it.

Q You didn't know it?

A If I had, I didn't know it.

Q But you searched your car each morning?

A Yes, sir.

Q So if it was there, it would have to have been put in between the last search and the time of the FBI search?

Bosch - cross

A It could be under one of the seats.
I don't deny it, that I have been having detonators.

Q Did you ever discuss with Morales the bomb failures on certain ships?

A The bomb?

Q The bomb failures, bombs which did not explode?

A No, I don't think so.

Q You don't recall discussing with him the failure on a ship called the MEREGHAN?

A No, I don't remember discussing anything with him.

Q When you, sir, accepted the designation as political designate of Cuban Power, having been appointed by Ernesto, did you accept or denounce his previous actions?

A I accepted the political delegation of Cuban Power.

Q What about the previous activities of Ernesto for which you said you previously believed that he was bombing ships?

A If I accepted?

Bosch - cross

Q Did you approve of it?

MR. GREENSPAHN: If it please the Court, this is irrelevant and immaterial as far as these charges are concerned.

MR. BIERMAN: Your Honor, that conference occurred during the period of the conspiracy.

THE COURT: I think I will overrule the objection.

The question, in substance, is, upon accepting this position with Cuban Power, did you accept, along with that position, the activities it had been engaged in in the past?

THE WITNESS: I sympathized and I accepted, all the attacks or whatever it is that is done not only by Cuban Power but all the Cubans against Castro and against those who trade with Castro and who is maintaining him also in power.

BY MR. BIERMAN:

Q One last question, Dr. Bosch: Did this mysterious Ernesto give you the three telegrams which are in evidence as Government's Exhibits 1, 2

Bosch - cross

and 3 for you to deliver to anybody?

A He didn't give me a telegram and I didn't give any telegrams.

MR. BIERMAN: I have nothing further.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Dr. Bosch, Mr. Bierman went into Government's Exhibit No. 75 with you. I don't want to go into detail at this time on this exhibit, but I would ask you, sir, when this document was prepared by you.

A I told him it was about four or five years ago. Here in this clip is a lot of years you can see it is rusty.

Q Was that before or after the Bay of Pigs invasion?

A After that.

Q Was that before or after the blockade of Cuba and the missile crisis?

A I think it was also after that.

Q Dr. Bosch, amplify if you will and

Bosch - redirect

explain if you will your answer to Mr. Bierman's question as to why you stopped practicing medicine.

A Why?

Q Why did you stop practicing medicine?

MR. BIERMAN: I am going to object to this, other than his own personal reasons. If he gives any opinions about anyone else, which I heard him do on previous occasions, that is why I made the objection.

MR. GREENSPAHN: I doubt that.

THE COURT: Well, both of you gentlemen have the advantage over me and the jury.

I will permit him to testify as to any personal reasons that he may have had. I will not permit him to testify as to any opinions or statements by other people.

BY MR. GREENSPAHN:

Q Dr. Bosch, confine your testimony, please, to the facts, not opinions. Answer the question.

A All right. I didn't want to--I don't know if this is an opinion, Judge, or not. If it is,

Bosch - redirect

just stop me.

THE COURT: It is your own personal reason for why you did it, not what somebody else thinks or what somebody else said.

THE WITNESS: I didn't want to answer the answer I was going to give to you now, because this hurts in some way the authority and the power of the United States.

I had two months left to complete the chance that they give to foreign doctors in the Florida Medical Association. I had two months left. Agents--federal agents--

MR. BIERMAN: Your Honor--

THE WITNESS: When the--

MR. BIERMAN: Hold it just a minute. He is reciting facts, your Honor.

MR. BIERMAN: He cannot recite any facts that would not be hearsay in regard to this.

THE COURT: What is he talking about? What somebody else did?

MR. BIERMAN: What somebody else did, that's correct, your Honor.

Bosch - redirect

THE COURT: Gentlemen, I think we are getting pretty far afield.

First of all, I don't know how material or how relevant it would be in this case with respect to why this gentleman didn't continue in the practice of medicine. But I don't want to get into a whole lot of actions or statements or things said by other people. I said that I would permit him to testify as to what his personal reasons were. And if he had such personal reasons, of course, what I had in mind was that he wanted to pursue other objectives or other ideas or that he was no longer interested in practicing medicine or that he had a more lucrative job or had some personal reason for doing it and not because of what somebody else may have said or may have done. I am not in the least bit interested in going into any lengthy discourse as to what may have motivated or created a situation on his part where he felt it no longer desirable to practice medicine.

Frankly, I don't see that it has a great deal to do with the case at all, to begin with. What is the real materiality of it?

Bosch - redirect

So far as I know, he himself testified on direct with respect to his medical activities and showed this card, along with other things with relation, at that point, as to whether or not he was wearing a moustache, but still going into the fact that it was connected with his medical activities.

Then the only thing that I know of after that is that counsel for the Government asked him when is the last time that he practiced, and he answered that. Frankly, I don't know what relevancy the reasons are why he quit practicing.

I am certainly willing to permit a generous amount of latitude, but I don't want to go into a lot of things outside the scope of this particular case.

MR. GREENSPAHN: I think, your Honor, by two questions I can meet the Court's concern in this regard.

MR. BIERMAN: Your Honor, I would object.

THE COURT: You cannot object to him asking a question. You can object to him after he

Bosch - redirect

asked the question and let me rule.

MR. BIERMAN: Could I request that it be proffered? Asking a question is often as prejudicial as the answer.

(Thereupon the following sidebar conference was held at the Bench out of the hearing of the jury:)

MR. GREENSPAHN: The only reason I bring this up is the inference in the jury's mind, by reason of the question he asked on cross examination, is Dr. Bosch quit the practice of medicine so he could be a full-time revolutionary or a full-time terrorist, and the thought that I want to put into their mind is that Dr. Bosch will testify, if permitted to testify--and I have reason to believe that by reason of efforts made by the Federal authorities, no hospital in Dade County will hire him. It is as simple as that. I think I can rectify the situation by asking one question: "Dr. Bosch, if you are allowed to, would you be practicing medicine today?"

MR. BIERMAN: I don't think that is exactly what I am objecting to.

Bosch - redirect

THE COURT: I am not going to permit him to testify that due to the Federal agents or due to Federal efforts he cannot practice medicine. I will permit him to testify that no hospital in this area will accept him if he wants to do that. But I am not going to permit him to testify it was due to federal activity that no hospital will accept him, because that is not--

MR. GREENSPAHN: All right. I will not pursue it any further.

THE COURT: Frankly, I think we are getting kind of far afield, anyhow.

MR. GREENSPAHN: What I would like to do, Judge--

THE COURT: I will ask the Government: Do you intend to make the argument that counsel has said that you might make--that he quit practicing medicine in order to devote full time to terrorist activity?

MR. BIERMAN: No, sir.

THE COURT: I am going to sustain the objection to the proffer as it is now made. I do not

Bosch - redirect

think it is proper. I think it calls for an opinion and conclusion of the witness. And it necessarily has to be based largely on hearsay, and it is a matter that, so far as the Government is concerned, would be impossible for the Government to rebut--a statement of opinion of that nature. So I will sustain the objection to the proffer as made.

MR. GREENSPAHN: Your Honor, I am going to be done with my redirect in one second. It may be that I may already be done, but I do want to publish certainly one document. I would suggest, after what happened, sir, in the last few minutes, perhaps it might be advisable to permit me to publish these documents in the morning.

THE COURT: That will be perfectly all right. I thought you had requested that we conclude his examination, and that was the only reason why I was going late, so that we could conclude it.

MR. GREENSPAHN: If I can do that in the morning?

THE COURT: If the document is in evidence, you can publish it in the morning.

Bosch - redirect

MR. GREENSPAHN: Fine.

(Thereupon the sidebar conference was concluded, pursuant to which the following proceedings were had:)

MR. GREENSPAHN: I have no further questions.

THE COURT: Ladies and gentlemen, we are going to recess now until nine o'clock tomorrow morning.

I would appreciate it if you gentlemen would again see that these ladies get to their cars. I am sorry to have kept you as late as I have, but in order to get some continuity with respect to this testimony, I thought it was best to finish the testimony of this witness rather than quit and have to come back and pick up again in the morning.

So I want to again re-emphasize my instructions to you and re-emphasize the necessity and importance of compliance with them. They are still in force and effect. And I will not repeat them to you because I believe each of you understand them. So you

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may be excused until nine o'clock in the morning.

Gentlemen, Court will be recessed until
nine o'clock tomorrow morning.

(Thereupon at 6:21 p.m., the
hearing was recessed to recon-
vene on November 14, 1968,
commencing at 9:00 o'clock a.m.)

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MIAMI, FLORIDA

Thursday, November 14, 1968

(The hearing reconvened, pursuant
to prior recess, at 9:00 o'clock
a.m.)

THE COURT: Good morning, ladies and
gentlemen.

Good morning, Mr. Greenspahn. Are you
ready to proceed?

MR. GREENSPAHN: Yes, sir.

THE COURT: You may.

MR. GREENSPAHN: Your Honor, at this
time in behalf of the defendant Bosch, we would
publish Exhibit No. 89-A.

THE COURT: All right, sir.

(Thereupon Government's Exhibit
No. 89-A was published by
Mr. Greenspahn to the jury as
follows:)

"MIRR-COMANDOS L

"ALLIANCE

"P.O. Box 322, Riverside Station,
Miami 35, Florida

"1661 W. Flager Street No. 7, Miami,
Florida

"STATEMENTS BY DR. ORLANDO BOSCH

"I feel honored at being designated
POLITICAL DELEGATE OF CUBAN POWER. I
accept the designation. There can be no
greater honor for me nor can there be any
greater satisfaction to me as a sincere
fighter than that of having had my
revolutionary brothers inside and outside
the Island think of my humble person to
occupy such a revolutionary position. I
shall not be filling a mere position but
rather I shall begin a new march. A goal
of great dimensions is presented to us and
we shall not rest until we have reached it.
For this opportunity of gallantry, for this
occasion of facing greater dangers, for
this situation of advancing in greater war
plans, for this door which my Fatherland
opens for me, I say 'Thank you' to the men
of Cuban Power.

"I have communicated to the Central

Junta of Cuban Power in Cuba, through its General Delegate, Ernesto, my decision which has been approved by the National Direction of the 'MIRR-Comandos L Alliance.'

"I have accepted this glorious mission because I know the course of these valiant men with profound democratic principles, lovers of Liberty, desirous of the best fate for Cuba.

"I met Ernesto many years ago. He is an old fighter, a tireless gladiator, and especially, a revolutionary who places the Fatherland above all. As time passed, the Nation again found itself in a position of danger, and the fighting brother returned to the battlefield. Much time had elapsed and we had not met again. In 1966, on board the launch Olympia, we came together again a few miles from Cuban territory.

"On later occasions, Ernesto made contact with men of our Movement and there have been several occasions when we have exchanged impressions outside of Cuba.

"Last August, I saw Comrade Ernesto again.

"On that occasion, I served as a liaison between him and Mr. Bert Quint of CBS for a report on Cuban Power which this news agency filmed.

"On September 17, eve of my public designation, I conferred with Ernesto in the city of Perrine, Florida, where we deliberated for many hours, and reached specific conclusions about ideological and strategic questions in regard to the liberation of our Fatherland.

"In order to prevent the failure of this great effort of the Cuban revolutionaries, I have accepted, because I believe that it is essential to have immediately a spokesman supported by the people, who would be relentless toward the enemy, inflexible in his purpose of indicating the way toward liberation, and who would face all the dangers and consequences which arise along the way from the conspiracy of powerful

interests. I know that this mission is hard and I am not the best qualified man to carry it out, but I have faith in the people of Cuba, confidence in the exiles and serene awareness of the strength of our cause. I take this opportunity to warn the Cubans who are engaged in purposeless terrorism in Miami and other places, and to hold them responsible for furnishing arguments which are used by the conspirators and enemies of the Cuban revolution in order to confuse public opinion, to discourage the Cubans themselves and finally, to present us in the gangster image, worthy of the chronicles of legendary Chicago.

"May our guiding hand help those who are motivated by patriotic purposes in these activities, but who are confused and badly guided, may our guiding hand help them to participate in more fruitful missions. Furthermore, to those evil-doers, thugs, evil-intentioned individuals and hidden Communists who use terrorism as an

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advantageous tool for their extortions or for the purpose of hurting the image of the exiles, may there go our accusing finger and a sharp blow on their heads without conscience.

"We Cubans must be respected by the peoples.

"In order to be respected, we must come to respect even the very right of the Cubans, themselves, to refuse to cooperate in the liberation of their own Fatherland. That is why we ask those who try to make the people serve by force to cease in their intentions; when men continually use violent methods and procedures, they are responding to frustration, and a picture of such procedures becomes fixed in their minds, and on some future day, when those same people do not respond to their equivocal appeals, they will use tanks and bayonets.

"In regard to my immediate work, it is included in the following ten points:

"Firstly: To unify the exiles.

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"Secondly: To organize the drive 'THE MILLION OF LIBERATION.'

"Thirdly: To encourage the participation of the exiles in every kind of fight.

"Fourthly: To work for the Movement of National Regeneration, characterized by the identification of the Cubans with national values.

"Fifthly: To inform once more the United States Government and the Organization of American States (OAS) of the decision of the Cuban people, inside and outside the island, a decision which is this time inalterably in effect, that we will not permit the United States and the USSR to gamble again with our national destiny, and of our firm intention to resist any attempt to trample on our right to fight for Liberty.

"Sixthly: To obtain the support of the free governments, institutions, organizations and peoples of the world for the cause of the Cuban people.

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"Seventhly: To express to the Cuban Revolutionary Organizations, patriotically and sincerely, the need for a change in strategy, after analyzing these years of fighting which have produced no great results. This change includes the strategy of 'invasion,' 'commando attacks,' and other methods which some of our groups in exile have been using. These various types of strategy, isolated from their propelling source, void of objectivity and historically outmoded, are worthy contributions of the past, but their ineffectiveness requires rectifications.

"Eighthly: To work for the realization of plans in order to create conditions of mobility, security and positive action by activists inside Cuba by furnishing them the means to fight.

"Ninthly: To encourage actions throughout the world by the Cuban revolutionaries, in order to blockade commerce with the tyranny, and by deeds to raise the image of the Cuban fighters for

Liberty.

"Tenthly: To diffuse these concepts to the general public by the means within our reach.

"Miami, September 24, 1968

"Dr. O. BOSCH (signed)

"Dr. ORLANDO BOSCH, Political Delegate of Cuban Power.

"With honor, ideals and Cuban resources

"WE WILL BE FREE!

"Insurrectional Movement of Revolutionary Recovery-Commandos L."

Your Honor, I propose to read a portion of Exhibit No. 75.

THE COURT: All right, sir.

MR. GREENSPAHN: It is a lengthy exhibit, and I don't think it is necessary to read the entirety of it.

(Thereupon Government's Exhibit No. 75 was published by Mr. Greenspahn to the jury as follows:)

"F O R E W O R D

"The proposal contained in the following pages, which you are requested to read but that cannot remain in your possession for security reasons, is to be reviewed by a very small group of loyal Americans - you among them - who have manifested concern regarding the insurgency plan presently being carried out by the Internationale (International Communist Bureau). As an added requirement, those exposed to this plan must hold such positions within the private enterprise system so as to be able to plan an extraordinary and important role as citizens of this free country in the financing arrangements necessary to offset the ever-increasing danger of communist subversion. This communist threat is now coming as a direct threat to the national security of the United States of America specifically, through infiltration in university campuses and the civil rights movement. This proposal is partly designed

to counteract this.

"We have qualified you as a patriotic American. Now you will have the practical opportunity - while remaining in your home and in your present occupation - to effectively combat Communism, helping those who utilize the only tactic that has successfully defeated Communism: direct action. Direct action against the promoters of hemispheric subversive terror and strike, who now direct it from Cuba. Direct action which, as history has proved in Guatemala, Venezuela, Turkey, Greece and Lebanon, has turned the tide against Communism.

"Let us clearly state it - this is not a propaganda plan; a headline, publicity-seeking proposal. This is a confidential outline of an all-out war of attrition to be waged until total victory is in sight against Castro and his hemispheric Viet Nam in Cuba has been eliminated. Only then will peace and self-determination be assured not only in Latin America but in Africa and the

US proper.

"If you think this over carefully, can there be a better security for you and your family than to invest a small amount in order to check and turn back these forces of evil, of religious persecution and the loss of every single, basic right of the individual? Is this security not comparable to a 'blue chip' investment when at stake is - through socialization and ever-increasing State control, ultimate goal of Communism - that you lose everything you now hold and for which you have worked for so many years? This is not Utopia; this has happened to other businessmen, only 90 miles away.

"Increased Direct Action against Communism as an outgrowth of this proposal is mainly guaranteed by our record of five years of bitter struggle - not at a typewriter, or a microphone, but in the fields of battle. Five years of warfare with no US government financial support; mostly with just dime, quarter, and \$1-bill

contributions from our own countrymen show conclusively that we have accomplished just as much as the rest of the revolutionary organizations in this field - including some which are mere 'fronts' for the US government. How have we accomplished such a record with limited funds? Lack of bureaucracy resistance to easy money and official pressures to direct us, dedication and unswerving committal to carry out our ideals without armchair directives is, to a great extent, the reason.

"Now, the task we have presently embarked ourselves in cannot be carried out with just dimes, quarters and \$1-bills. This is why we now knock at your door.

"We will fight and we will win - because we have absolute trust in God and of final victory over Communism. Help us to help you spare yourself what we have already been through; help us bring Cuba back to democracy and self-determination - rather than keep that unsinkable aircraft carrier

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of subversion which through radio and other types of propaganda, and as base of guerrilla training, will soon send hundreds of subversives to the United States instead of the limited few of the Black Liberation Front. Help us preserve the Jefferson Memorial and the Statue of Liberty! Better still, help us preserve your present way of life.

"Dr. Orlando Bosch, Coordinator -
MIRR."

Your Honor, the defendant would call
Oscar Angulo.

(Thereupon, Oscar Angulo, called
as a witness and not having
responded to the call, failed to
appear.)

MR. GREENSPAHN: Your Honor, the witness
is not here.

THE COURT: Has he been subpoenaed?

MR. GREENSPAHN: Yes, sir. We were
told he would be here in the beginning of the
morning session. I do not wish to embarrass the

witness in order to have the Court's powers employed in this regard. He is not here.

MR. BIERMAN: If we could have a brief proffer of his testimony, we could save time. We have an idea of what it relates to, and we would object to it.

THE COURT: Do you have another witness that you can use?

MR. GREENSPAHN: No, sir. I plan to probably rest my case after him.

THE COURT: All right, sir. Do you want to make a proffer in the presence of the jury?

MR. GREENSPAHN: I will be glad to make it out of the presence of the jury.

THE COURT: Will you excuse us for a few minutes, ladies and gentlemen?

(Thereupon the jury was excused,
pursuant to which the following
proceedings were had:)

MR. GREENSPAHN: Your Honor, the nature of the testimony to be presented by this witness is as follows: Oscar Angulo is a newsman for Radio Station WQBA, a local radio station which serves the

Cuban community. The day after Mr. Morales testified-- and I had alluded to this before the Court before-- Mr. Angulo, while driving down to the courthouse in the morning for the purpose of covering this trial for his radio station was forced to the side of the road by Mr. Morales and another gentleman who, I believe, can be identified. His work notes were taken, destroyed, threats were made to him by Mr. Morales directly.

This goes to the type of person Mr. Morales is, the type of credibility, if any, that he should be accorded. This, essentially, would be what his testimony would be.

He was under subpoena by the Government as well, I understand, but, of course, they didn't choose to bring him in.

MR. KLEIN: Who was?

MR. GREENSPAHN: Angulo. I may be misinformed, but that is the information I had.

MR. KLEIN: There is a dispute as to the facts, but having taken things in that light, that is just not material. It is something that a witness does in the way of a threat, if he does it, and it is

just something that does not bear upon his credibility. To try to show some act of misconduct, either prior or later, is just not the proper way.

I think that the furthest scope of any kind of misconduct that can be gone into to attack the credibility of the witness would be what we have had on the stand and in the way of showing this man's arrest and the purpose of that arrest. But any further than that, whether or not he beats his wife or makes a threat or anything else is not material.

THE COURT: The question is whether or not he tried to intimidate or coerce or influence another witness.

MR. KLEIN: That man was not a witness.

MR. BIERMAN: He was not a witness at that time. He was called afterwards to discuss this particular threat. The incident arose over the fact that the radio station that he represents--and Mr. Morales believes it was his--called Mr. Morales a "chivato" over the air and said, "All good Cubans should spit in his face," and I don't know what happened. They did confront each other. The

additional facts of the confrontation I don't know, but this can in no way relate to his truth and veracity in his testimony prior to this, if he has a temper which flared up afterwards and he confronted this man.

MR. GREENSPAHN: I might add this, your Honor, for the knowledge of the Court: On the Sunday before this trial began, I spent an hour and a half with Mr. Angulo, because I did contemplate his possible use as a witness in this proceeding. As it is, I don't feel that necessarily relevant at this time that he testify to the things that I thought he might do, but he understood that he would be called.

THE COURT: Let me ask you this: Forgetting the incident for the time being, what testimony, if any, that would be relevant or material to this case could this proposed witness give?

MR. GREENSPAHN: Your Honor, I don't know what testimony he would give or that I would want him to give. I didn't intend at this late stage of the trial to put him on for any purpose than this, but there is other testimony. As I understand it,

he was at the supposed meeting involving the black hood, and it was my principal purpose in talking to him.

THE COURT: That would just be cumulative. What he would testify to about that particular meeting would be merely cumulative. That is as to what both sides have put in with respect to this, because there is no conflict with respect to what took place.

MR. GREENSPAHN: I agree with your Honor.

THE COURT: What I am concerned about is this: If the man had no relevant or material testimony with respect to the merits of this case and that testimony was not attempted to be intimidated or if the witness was not attempted to be intimidated from giving that testimony, which, of course, would be a violation of a federal statute to begin with on the commission of an offense, I would not be concerned with any personal encounters that these witnesses might engage in, no more than I would be concerned nor would I permit--and I don't suggest that--but suppose the Government would want to come

in in rebuttal and attack Dr. Bosch's testimony by saying that he testified on the stand that he has a wife and children and everything, but we have witnesses to prove that he beats his wife on Saturday nights. I wouldn't permit that. It would be an act entirely unrelated to this particular matter.

If this particular witness and Morales have some personal argument or some disagreement among themselves, I would not be concerned with that, no more than I would, for example, if you proposed to prove that Morales got into a fight last night and beat some fellow up in an argument. But I am concerned and I would be concerned if there was any attempt on the part of Morales to make this man change his testimony which would be material or relevant to this case or to prevent him from testifying as to any matter which would be material or relevant in this case or which would in any way contradict Morales' testimony. I would take the position then that that would be admissible; and in addition to that, it would be the commission of a felony by Mr. Morales.

MR. GREENSPAHN: Exactly.

MR. KLEIN: We have heard of incidents from both ends, including Mr. Angulo and Mr. Morales, and it did not relate to any testimony. It related to newspaper editorializing, radio editorializing about the character of Morales.

MR. GREENSPAHN: The fact is, Judge, when this happened, there was a very distinct probability that Angulo's testimony might be of value to the defendant.

As you say, at this posture of the proceeding, it becomes cumulative, because we had anticipated that the Government might bring in or attempt to show, as has been shown, anything further than that one meeting. But at this time his testimony as a witness is relevant and material and not cumulative.

Now, of course, because of the several days that have passed since that event, it is a different story. Now his testimony is cumulative and I didn't intend to call him for that purpose, because I felt it would add nothing to it, but that decision on my part has been made in the last day or two.

MR. MORRIS: The question is that the confrontation had nothing to do with the testimony.

THE COURT: I prefer, before passing on this thing, if possible, to get this witness here and have him put on the stand, put under oath and see what the situation is directly by virtue of proffered testimony, and then I will pass on it. I do not want to do it, but with the state of the record as it is now--for that purpose, Mr. Greenspahn, I am perfectly willing for the Marshal, at your request, to try to communicate with this man. If he cannot find him, I am perfectly willing to continue the trial and issue a warrant for his arrest and bring him in here.

THE MARSHAL: I contacted this man on his home phone but he is not home. I contacted his place of employment--he is a newspaperman. He has not appeared there as yet today.

MR. GREENSPAHN: I believe he is on his way here. It was my understanding that he would be down here.

THE COURT: Suppose we do this: I prefer actually to have an actual record made rather

than a proffer and a possible difference of opinion as to what the situation is, because at this point or at that point I would be in a better position to pass upon the matter than just the statements of counsel; because, first of all, you gentlemen, while I am sure you are both sincere, you don't interpret it quite the same way. I don't want to be in the position of accepting the evaluation of the situation by one or the other. I would prefer to have the witness.

We will recess for a little while and see if he comes up here. Let's take a recess and we will wait.

You have said or you have indicated that after this you are going to rest?

MR. GREENSPAHN: Yes, sir. It appears that I will. I am relatively sure that I will.

THE COURT: Well, I will tell you what I will do: We will take a recess for ten or fifteen minutes or so, and if he shows up--if he is going to show up, he certainly ought to be here by a quarter to ten.

MR. GREENSPAHN: I think so. And we

can find him, I am sure, in the interim.

THE COURT: Good enough. We will take a recess for a short time and see if we can locate this man, and if he doesn't appear in the meantime after a reasonable time, if he doesn't show up, we will go ahead and discuss what further procedures we should take. In the meantime the Court will take a short recess.

You might tell the jury, if counsel do not have any objection, Mr. Marshal, that they can go across the street and get a cup of coffee. We will take at least fifteen or twenty minutes.

MR. GREENSPAHN: Fine.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had in the presence of the jury:)

THE COURT: Ladies and gentlemen of the jury, some matters have come up which will make it impossible for me to continue taking testimony between now and noon. Therefore, I am going to excuse you until one o'clock. During that recess the same instructions I have given you, of course, will

still be applicable. You may be excused until one o'clock. I hope we will be able to get started again by then.

(Thereupon a short recess was taken, pursuant to which a conference on charges having been held, the Court reconvened, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: Gentlemen, I have been advised by Mr. Greenspahn that he has a prospective witness who cannot be here until one-thirty. So far as the Court is concerned, I am, of course, disposed to wait, if the witness is able to be here.

Now, with respect to the other witness who has not appeared, a warrant was issued by me for his arrest. A diligent effort has been made by the Government to locate him; and in the course of their efforts to locate him, they advised me that they communicated with his employer who stated to them that he and this employee of his (the prospective witness) had a long conversation regarding his appearing today,

and as a result of that conversation it was decided that he would not appear today, would not be available as a witness; that he (the editor) does not know the man's present whereabouts, but that he believes that he left the city early this morning and was en route to Key West.

The Marshal's office has circulated a notice for his arrest and apprehension. If he should be in Key West, I have no doubt but that he will be picked up and will be arrested. If that be true, I have no way of knowing--he may be going to Jacksonville instead of Key West--but if that be true, even if he were apprehended within the next hour, it would be three to four hours before he could be returned to Miami.

So that there will be no misunderstanding, so far as I am concerned, this warrant for his arrest is outstanding and will continue to be outstanding whether he is called as a witness in this case or not, whether this case is concluded or not. Because, so far as I am concerned, the witness has committed a deliberate contempt of Court, and I propose to have him before me and have him or give him

an opportunity to show cause why he should not be subjected to the penalties for contempt and for willful disobedience of the subpoena.

However, we have this situation: I prefer to have the witness' testimony, if it is possible to do it. However, I do not intend to continue this case indefinitely in order to wait until such time as he is apprehended and brought here.

I have concluded from the proffer that had been made to me by counsel and by the statements of the Government that if called as a witness this man would testify to some altercation which occurred between him and the witness Morales concerning some notes or some reports that he was making with a view to publishing something in the paper.

I don't find in what has been said before me at this time any attempt to intimidate this witness from giving any testimony with respect to any relevant or material knowledge that he may have concerning the merits of this case; nor do I find any attempt to purposely prevent him from testifying or to get him to change his testimony.

In view of my conception of the proffer that has been made before me, I will rule that the purpose for which the witness is being proposed to be offered--that is, to affect or attack the credibility of the witness Morales--the testimony which he proposes to give would not be a proper form of impeachment, nor would it be a proper method of attacking the credibility of the witness. And if such testimony were presented and there were an objection by the Government, I would sustain the objection of the Government. I base my ruling, to some extent, upon the fact that it appears to me that this particular altercation is something more or less of a personal affair as it might relate to this witness and Morales. Secondly, isolated or similar events normally are not proper evidence insofar as it might tend to affect the reputation or character of the witness. I don't see how it would affect or could affect the credibility of Morales in this respect in that there is nothing in this record which constitutes a denial by Morales of the acts that this witness, if permitted to testify, would testify to. So, gentlemen, I am going to rule that the testimony,

considering the purpose for which it is offered, is not competent or material or relevant to the issues of this case, and I will sustain the Government's objection to the proffer.

Now, gentlemen, we will wait until one-thirty.

MR. BIERMAN: I think we can alleviate that. I have spoken to the witness involved and would be willing to stipulate as to his testimony.

THE COURT: What witness? The one that is coming?

MR. BIERMAN: Alphonso Sepe.

THE COURT: Are you willing to stipulate what his testimony will be? Unless counsel are in perfect agreement--

MR. BIERMAN: After making it known to him, I think he will be in agreement.

THE COURT: We will recess for a short time and see if you gentlemen can agree. If you cannot, we will then recess until one-thirty when the witness can be here.

As I understand it, this witness who has not appeared was subpoenaed, is that correct?

MR. GREENSPAHN: Yes, sir.

THE COURT: And he was not excused by you from appearing?

MR. GREENSPAHN: No, sir. He was asked to be here today.

THE COURT: All right, sir.

MR. GREENSPAHN: In the light of your ruling, your Honor, I recognize that the matter is now in the hands of the Court as to the disposition of the witness. However, if the Court is now going to let me use him in any way, then I wish him no harm and I would not ask the Court to proceed on the warrant on the basis of my previous request that it be done.

THE COURT: I appreciate your feeling, Mr. Greenspahn, but the Court is not acting on your suggestion. The Court is acting on its own initiative and own motion, and the Court does not look kindly on anybody who flagrantly violates the orders of this Court or the processes of this Court. And the fact that I have, under these circumstances, ruled that his testimony would not be admissible does not in any way excuse him from being present. And what action the

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Court takes with respect to him, so far as I am concerned, is dependent entirely upon what excuses, if any, or what reasons, if any, he gives to me. I certainly will give him an opportunity to explain why he hasn't been present. If I think it is a good reason, that is it. If I do not think it is a good reason, then I am going to take whatever action I think is proper under the circumstances.

MR. GREENSPAHN: May I have the right, sir, if he presents himself before the Court, to renew my proffer of him for other purposes if such other purposes present themselves?

THE COURT: Yes, sir, you certainly may.

All right. We will recess for a short time and you gentlemen see if you can stipulate. We will recess until the witness gets here.

(Thereupon a short recess was taken, pursuant to which the following proceedings were had in the presence of the jury:)
(Thereupon at 2:15 p.m., the hearing reconvened.)

THEREUPON--

ALPHONSE SEPE,

called as a witness on behalf of the Defendants,
having first been duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Please state your name and your
professional address.

A Alphonse C. Sepe, State's Attorney's
office, Metropolitan Justice Building, Dade County,
Florida.

Q Mr. Sepe, what is your official
capacity with the State Attorney's office?

A I am the Executive Assistant to the
State Attorney--Mr. Gerstein.

Q Are you here today in response to a
subpoena?

A Yes, sir.

Q Mr. Sepe, have you, pursuant to the
directions upon the subpoena, brought with you your
records--that is, the records of the office of the
State's Attorney--relative to Ricardo Morales

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Sepe - direct

Navarette?

A Yes, sir.

Q Have you had occasion to speak with any officers, agents, servants or employees of the United States Government relative to Ricardo Morales Navarette?

A Yes, sir.

Q Can you tell us when the first such conversations took place, sir?

A May I refer to my records?

THE COURT: Yes, sir.

A On September 9, 1968, at approximately ten minutes to four in the afternoon.

BY MR. GREENSPAHN:

Q Is your office charged with the prosecution of Ricardo Morales Navarette for a now pending case entitled "State of Florida v. Ricardo Morales Navarette"?

A Yes.

Q Who were the representatives of the United States Government that you spoke with on September 9?

Sepe - direct

A I spoke with Mr. Joseph C. Ball.

Q Did Mr. Ball identify himself to you as being with a particular United States Agency?

A Yes, sir; the Federal Bureau of Investigation.

Q Will you relate to us the nature of your conversation with Mr. Ball, telling us what he said to you and what you said to him?

A In substance Mr. Ball advised me of his identity and position and stated that Morales Navarette--as I knew him as Navarette--had been cooperating with the Federal Government and recommended that his case pending in the State Court be nolle prossed.

Q Will you explain in lay terms what the Latin phrase "nolle prossed" means, and especially what such a term means in connection with the duty of your office.

A Simply that the prosecution terminate and the case be dismissed.

Q Was there any particular significance in that time--that is, the date with regard to the

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Sepe - direct

pending proceeding against Mr. Navarette?

A In my conference just a few moments ago, the appearance of Mr. Ball was related to the case on September 9th, and some action was to have been taken on a case in Court on that same day. That action was continued. However, the action in the Court was continued, as I recall, prior to Mr. Ball's appearance in the State Attorney's office.

Q When is this matter continued to, if you know, sir?

A I don't recall. It may be January.

Q Did you solicit Mr. Ball's appearance at your office or did he present himself upon his own initiative? In other words, did you call him or did he come to you?

A Mr. Ball came with a member of the Miami Police Department. They came on their own.

Q Has any independent decision yet been made by you in your official capacity as to whether or not a nolle prosequere would be had in the case of the State of Florida v. Morales?

A No, it has not.

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Sepe - cross

MR. GREENSPAHN: Thank you, sir. I have no further questions.

THE COURT: All right. Cross examination?

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CROSS EXAMINATION

BY MR. BIERMAN:

Q Mr. Sepe, who was the state officer who came with Mr. Ball?

A Lieutenant Swilley, of the Miami Police Department Criminal Intelligence.

Q Do you know what relationship he had with your pending case?

A Yes. He was one of the principal investigating officers.

Q Did he make a recommendation in regard to the case that he had presented to your office?

A Yes.

Q What was his recommendation?

A His recommendation was that the case be nolle prossed or continued.

Q Would you relate to us, sir, the exact

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Sepe - cross

statement, if you have it exactly, that Mr. Ball made to you about the cooperation of Mr. Morales?

A Well, preliminary to this questioning by me directed to Mr. Ball was a description of what Navarette had been doing, and then I responded by asking the question, "What is your recommendation?"

Q I am talking about what Morales Navarette had been doing. What did he tell you he had been doing?

A I will read the answer of Agent Ball testifying to me. "The activities of the Cuban Power organization. . ."

THE COURT: No. He is not speaking to you now? You are taking his testimony under oath, are you?

THE WITNESS: Yes, sir.

THE COURT: All right, sir.

THE WITNESS: He was under oath. In testifying to me his answer was, "The activities of the Cuban Power organization have become nationwide in scope in that bombings have been connected by this organization in Los Angeles, Chicago, New York, as well

Sepe - cross

as Miami. Morales Navarette has been of substantial assistance to the FBI in investigating the over-all operations of this group both in Miami and in other parts of the United States. Additionally his services have been utilized in the operation through which one British ship has been saved from being bombed at sea with a possible loss of thirty-four lives and \$2,000,000 to \$3,000,000 damage.

Additionally seven other such ships are believed to have bombs containing simulated explosives, and attempts are being made to locate these bombs.

Morales personally can be credited, at the risk of his own life, with furnishing simulated dynamite to organizations engaged in an attempt to bomb British and Japanese vessels, which would severely impair the relationship between the United States Government and the governments of these countries."

Then I said, "Do you have any recommendation to make?"

Q And at this point he recommended to you that the case be nolle prossed?

A He said, "I recommend the case be

Sepe - cross

nolle prossed, if possible."

MR. BIERMAN: Thank you, Mr. Sepe.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. GREENSPAHN:

Q Mr. Sepe, with the exception of that portion of your transcript that you read, did Mr. Ball indicate to you any other reason why he felt, in his official capacity, this case should be dropped or nolle prossed?

A No.

Q Did you know the purpose of his visit when he came to you and rendered that testimony?

A Did I know it before he started speaking to me?

Q Yes, sir.

A Frankly, Mr. Greenspahn, I can't recall if I had not been advised of this by Lieutenant Swilley in some other conversation I might have had with Mr. Swilley that Mr. Ball was of this opinion and would make an expression of this kind to me. I just don't remember that.

Q Now, your office, up to that point, at any rate, had not conducted any investigation relative to the case that is now pending before this Court on these defendants, had it, with regard to this case?

A No, sir. It would be outside of our jurisdiction.

Q And you had no indication that these defendants were, in fact, involved in the case that your office was prosecuting?

A No.

Q When Mr. Ball made the statement to you that has been read by you or that has been transcribed in your notes, did you have any knowledge as to any of the statements made by Mr. Ball--that is, with reference to the bombing of the ships and the various other things that he said in the course of that statement? This was something that he was relating to you and that you were hearing for the first time?

A Yes.

Q As a matter of practice and policy, would your office have undertaken the prosecution of

Mr. Navarette in this instance without having had a reasonable basis for undertaking such prosecution?

MR. BIERMAN: I will object.

THE COURT: I will sustain the objection.

MR. GREENSPAHN: I have nothing else. Thank you, Mr. Sepe.

THE COURT: Now, ladies and gentlemen, I want to give you a cautionary instruction. This testimony has been admitted by me solely for the purpose of relating to the weight and credibility that you might place upon the testimony of the witness Morales, with respect to whether or not his testimony has been motivated by any promises or inducements. The statements of Mr. Ball are not in evidence in this case with respect to the guilt or the innocence of the defendants. They are statements that he made at this time to this witness, but they are not evidence before you. You are to decide this case solely upon the evidence which you have heard in this case and not from the statements made by Mr. Ball or anyone else outside of this courtroom.

Does everybody on the jury understand

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that?

(The jury indicates in
the affirmative.)

THE COURT: All right.

MR. GREENSPAHN: Your Honor, the
defendants jointly and severally rest.

THE COURT: All right, sir. Does the
Government have any rebuttal testimony?

MR. BIERMAN: Yes, we do, your Honor.

THE COURT: Call your witness, please.

MR. BIERMAN: I will call Agent
Stickney.

Also, your Honor, there was some
confusion as to whether or not Government's Exhibit
No. 24 has been formally offered into evidence. It
is the spring and the two screws.

MR. GREENSPAHN: My understanding is
it was received in evidence, your Honor.

THE COURT: It is my understanding
that they have been offered and received in evidence.
But do you now offer them in evidence?

MR. BIERMAN: I re-offer them.

THE COURT: I will note an objection by

the defendants and they will be admitted in evidence.

(Thereupon the articles referred
to were received in evidence as
Government's Exhibit No. 24.)

MR. BIERMAN: I am not quite positive
if we had introduced the following registration
documents in the presence of the jury.

THE COURT: Again it is my understanding and recollection that they have been offered and admitted into evidence. But to avoid any possible misunderstanding or confusion, I will permit you to now re-offer them in evidence. I will note the objection of the defendants and I will overrule that objection and admit them into evidence as official documents.

THEREUPON--

THOMAS JAMES STICKNEY,
called as a witness in rebuttal on behalf of the
Government, having first been duly sworn, was examined
and testified as follows:

THE CLERK: Please state your full
name for the record.

THE WITNESS: My name is Thomas James

Stickney - direct

Stickney.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Stickney, have you had occasion to meet one Jorge Luis Gutierrez?

A I have.

Q When and where was that, sir?

A That was here in Miami on October 11th of this year.

Q What was the occasion?

A I was one of three persons who participated in his arrest.

Q Were you present, sir, when, if ever, he was advised of his constitutional rights?

A Yes, I was present.

Q What was he advised of?

A He was advised first in English by another agent and then in Spanish by me.

Q What did you advise him?

A I advised him that he had the right to remain silent; that anything he said at this time or at any other time could be used against him in a court

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of law; that he had the right to an attorney of his own choice, and if he didn't have an attorney or couldn't afford one, the Government will appoint one for him.

Q Then did he make any statements at that time, sir?

A No. He said he understood his rights and that he didn't care to say anything.

Q Then where did you go from there?

A From his house we went down in a Bureau car, the FBI car, went down directly to the FBI Building on Biscayne Boulevard.

Q During the course of this ride do you know if any conversation ensued?

A Yes, there was a conversation, part of it in Spanish and part in English.

Q Did you have any conversation with Mr. Gutierrez in regard to a 1964 Dodge Dart?

A I overheard. I had very little to do with that particular conversation. I overheard the conversation between Special Agent David Jellison and Gutierrez. I think I participated only slightly in that particular phase of the conversation.

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Stickney - direct

Q What did you overhear, sir?

A The conversation went generally to the effect that--

MR. GREENSPAHN: If it please the Court, I would object to a general restatement of the conversation. If the gentleman heard it, he should recall it as it was.

THE COURT: I will sustain the objection as to the general conversation.

Give the substance of the conversation as best you recall it, sir.

THE WITNESS: Yes, sir. As I recall this conversation, Gutierrez was very concerned with whether or not his name and photograph would appear in the press and on television. It was explained to him that we had no control over the press and it very well might be his name and photograph might appear in the newspaper.

He then wanted to know if anyone had gone to his future father-in-law or questioned him about any part of this investigation, and Jellison said yes, that he had. And he wanted to know why--

Stickney - direct

Gutierrez wanted to know why, and Jellison told him that a car, a Dodge Dart--I believe it was a Dart--had been observed on the night of the shooting of the POLANICA, and it was checked out to his future father-in-law, and as a result the future father-in-law had been interviewed.

Q What, if any, response did Mr. Gutierrez make to that, sir?

A Gutierrez said, "Well, I wasn't involved. I was just driving the car."

Q Were you nervous that day, Agent Stickney?

A No more than usual, not particularly.

Q How many arrests have you made during your career as an FBI agent?

A It's hard to say. Hundreds, I would say.

Q Did you express to Mr. Gutierrez any particular distress in having to arrest him?

A Distress?

Q Distress, yes.

A Well, he said--he was complaining about

being abused, being arrested. And, after all, he was fighting to get rid of Cuban Communism, et cetera, and he didn't like the idea generally of being arrested. I told him, "I don't like this particularly. I don't get any fun out of arresting people."

I don't think the word "distress" would be quite the word to use.

Q In other words, you were expressing your opinion that you have no great pleasure in arresting people, is that correct?

A That is just about it.

MR. BIERMAN: I have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q When the conversation between Agent Jellison and Jorge Gutierrez took place, what was the position of each of the occupants in the automobile that you were in?

A Gutierrez was sitting in the middle of the rear seat of the car. Agent Jellison was sitting on the right side of the rear seat and I was sitting on the left side. In other words, Gutierrez was

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sitting between us in the rear seat of the car.

Q When the conversation was taking place, was it in English or in Spanish?

A Most of the conversation that I have represented here--in fact, almost all of it was in the English language.

Q Was Gutierrez turned toward you or did he turn his head toward Agent Jellison when he made the statement that you say he made?

A I don't recall.

Q Was there any noise of any sort in that automobile other than the normal conversation of the occupants?

A Yes, sir, there was.

Q What was that, sir?

A There was the two-way FM radio up in the front seat, up under the cowl.

Q Was that relatively active at the time of this ride in the automobile?

A In my opinion it was not any more active at that time than it is ordinarily during the day.

Q Was it on?

A It was on.

Q Was there conversation coming through that radio with some degree of regularity during the course of the time that you were proceeding to the FBI Building?

A Fairly regular.

Q Gutierrez told you that he understood his rights and didn't have any desire to say anything to you, did he not?

A This is true.

Q Were there any other words by Gutierrez in connection with his operation of his future father-in-law's motor vehicle other than what you have told us, or was that the extent of it? That seemed to be the extent of it, wasn't it?

A I don't recall at this time if there was. I frankly don't recall.

Q Do you know of your own knowledge whether Jorge Gutierrez had been utilizing his future father-in-law's automobile for his personal pleasure, social pleasure during the course of the days preceding the arrest?

MR. BIERMAN: I am going to object to

that.

THE COURT: I am going to overrule
the objection.

A I have no personal knowledge.

MR. GREENSPAHN: Thank you, sir. That
is all.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. BIERMAN:

Q Did you have any difficulty hearing,
Agent Stickney?

A Do I have any difficulty?

Q Did you have any difficulty hearing?

A None whatsoever.

MR. BIERMAN: I have nothing further.

THE COURT: Thank you, sir. You may
step down.

(Witness excused)

THE COURT: Call your next witness.

THEREUPON--

GEORGE EVAN DAVIS, JR.,
called as a witness in rebuttal by the Government,
having first been duly sworn, was examined and
testified as follows:

THE CLERK: Please state your full
name.

THE WITNESS: George Evan Davis, Jr.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Agent Davis, have you ever placed anything or taken anything out of the car of Dr. Orlando Bosch?

A No, sir.

MR. BIERMAN: I have nothing further.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q In the question that counsel has just asked you, he used the word "ever." I would ask you, sir, have you ever removed any items of property from the home or the automobile or any other place from the possession of Dr. Orlando Bosch?

A No, sir, with the exception of some keys which we took from his possession incidental to his arrest on October 11, 1968.

MR. GREENSPAHN: No further questions.

THE COURT: Redirect?

MR. BIERMAN: No redirect.

THE COURT: Thank you, sir. You may step down.

(Witness excused)

THE COURT: Call your next witness.

MR. BIERMAN: The Government rests, your Honor.

THE COURT: All right, sir.

Is the Government ready to commence its opening argument?

MR. KLEIN: Yes, your Honor.

THE COURT: You may.

So that you may understand the proceeding in this trial in the event you have not participated as a jury before, we have reached the point where all of the evidence which will be introduced in this cause has been introduced. There now remain the argument of counsel to the jury. And I

might preliminarily instruct you that the statements and arguments of counsel are not evidence. They are only intended to assist you in understanding the evidence and the contentions of the parties. What they themselves say to you is not evidence. The evidence you have heard from the stand. It is their inferences and their contentions which will be presented to you.

And after the Government has done that-- they have the right to make an opening and a closing argument. The defense will have to present their entire argument in between. Both sides have been allotted equal amounts of time in which to present their arguments.

At the conclusion of their arguments, it then remains for the Court to charge you with respect to the law which is applicable to the case. And after that the case will then be turned over to you for your deliberation and decision. But those will be the steps which will be taken before the case is received by you.

And I want to impress upon you that there is a great necessity for keeping an open mind

and not trying to form any opinion until you have heard all of the evidence and the arguments and the instructions of the Court.

The Government may proceed.

(Thereupon closing arguments were made by counsel for the prosecution and counsel for the defense, pursuant to which the following proceedings were had:)

THE COURT: Ladies and gentlemen of the jury, we will recess now until 10:00 a.m. But Court will be recessed until 9:00 o'clock tomorrow morning.

(Thereupon at 4:53 p.m., the hearing was recessed to reconvene on Friday, November 15, 1968, at 10:00 o'clock a.m.)

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MIAMI, FLORIDA

Friday, November 15, 1968

(The hearing resumed at 10:00
o'clock a.m., pursuant to prior
recess, pursuant to which the
following proceedings were had:)

THE COURT: Mr. Greenspahn, I understand that you have a matter you wish to present?

MR. GREENSPAHN: Yes, sir. Yesterday in the confusion of the afternoon, I completely forgot to move, at the close of the Government's case, for a judgment of acquittal, and for the record I will do so now.

THE COURT: Well, I was going to remind you of it myself, actually. It was in my mind, and then during the course of the arguments it slipped my mind. But the record will show that the Court has permitted counsel to now interpose a motion for a judgment of acquittal on behalf of each and every one of the defendants severally as though the motion had been made at the conclusion of the Government's case. The Court will deny the motion.

MR. GREENSPAHN: Thank you, sir.

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MR. BIERMAN: Your Honor, during the closing arguments some reference was made to the transcript going to the jury. We have no objection to it.

THE COURT: That is a problem because actually, Mr. Greenspahn, the entire transcript was not introduced in evidence. Only those portions which were actually read from into the record are in evidence.

MR. BIERMAN: Then we would prepare an excised copy.

THE COURT: After you told them they could take it in there, it does create sort of a situation. It is just one of those things. I realize when you are all wound up and you are in a case that happens. I could not permit those transcripts to be taken into the jury room unless counsel agrees that that can be done. I don't know whether they will ask for them, but since there was an argument presented to them, there is a problem. They may ask for them. If they do, then we have a situation where I will have to tell them they cannot have them because they are not in evidence or, if

counsel wish, if they are willing to agree, the entire transcript may be given to them.

MR. GREENSPAHN: The Government says it will prepare an excised copy reflecting only those portions that were in fact introduced in evidence.

THE COURT: That is perfectly all right with me, but they are going to have to move fast.

MR. GREENSPAHN: One last point before the jury comes back. If you will remember, the other day there was a large thing described as a bomb head that was removed from the evidence. I don't know what the Court's procedure is in this regard. I know it was introduced and received in evidence, and the jury may still have the conception that it is still in evidence. I wonder if the Court would make known to the jury the fact that it has, because of whatever reason the Court had for removing it--

THE COURT: I ruled on that thing three times, sir. I ruled first that it wasn't in evidence. Then I ruled, based upon the testimony of Captain Brodie, that it would be admitted in evidence. And then I ruled again--frankly I don't recall what I

ruled.

MR. BIERMAN: You ruled that it be stricken.

MR. GREENSPAHN: It was stricken but it was stricken outside the presence of the jury and they may think it is still in evidence.

THE COURT: All right. I'll be glad to do that. Let me have it so they will know what I am talking about.

MR. GREENSPAHN: Those are all the motions that we have before you at this time.

THE COURT: Thank you, sir.

(Thereupon the jury was returned to the courtroom, pursuant to which the following proceedings were had:)

CHARGE OF THE COURT

THE COURT: Ladies and gentlemen of the jury, in the trial of this case the judge and the jury have separate functions. The judge presides over the trial to rule on questions of law so that proper and relevant evidence will be presented, and to instruct the jury on the law which is applicable to the case.

The jury should follow the law as it is given by the judge. All of the instructions should be considered together and regarded as the law applicable to this case. The jury has no right to disregard or to give special attention to any one of the instructions or to question the wisdom of the rules of law which the Court gives to you.

The function of the jury is to determine the facts. This should be done without prejudice, fear or favor, and solely from a fair consideration of all of the evidence. The evidence should be considered and viewed by the jurors in the light of their own observations and experiences. If, during the trial, the Court has intimated any opinion as to the facts, the jury may entirely disregard such

intimation since you, as jurors, are the sole and exclusive judges of the facts.

It is the province of the jury to determine the credibility of each witness and the weight to be given to his or her testimony. In weighing the testimony of each witness the jury should consider his relationship to the Government or to the defendants; the witness's interest, if any, in the outcome of the case; his manner of testifying; his candor, fairness and intelligence; and the extent to which he has been corroborated or contradicted, if at all, by other credible evidence.

The testimony of police officers or of Government agents is to be subjected to the same tests and given the same consideration as that of any other witness, and no more and no less weight is to be given to such testimony because of the official capacity of the police officer or Government witness.

A defendant in a criminal case is presumed by law to be innocent. This presumption remains with him throughout the trial unless and until he is proven guilty of the crime charged by credible evidence beyond a reasonable doubt.

The burden of proving a defendant guilty beyond a reasonable doubt rests upon the Government. This burden never shifts throughout the trial. The law does not require a defendant to prove his innocence or to produce any evidence. He may rely upon evidence brought out by the Government itself. If the Government fails to prove a defendant guilty beyond a reasonable doubt the jury must acquit him.

A reasonable doubt means a doubt that is based on reason and common sense. Such a doubt must be a substantial one rather than a speculative one; that is, a defendant is never to be convicted on mere suspicion and conjecture. Such doubt, however, must be a doubt that is reasonable and one which arises from the evidence or the lack of it. It does not mean a mere possible doubt or a speculative, imaginary or forced doubt because anything relating to human affairs is open to some possible or imaginary doubt.

A defendant may be proven guilty by either direct or circumstantial evidence. Direct evidence is the testimony of one who asserts actual

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knowledge of a fact, such as an eyewitness.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the guilt or innocence of the defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence; it requires only that the jury, after weighing all of the evidence, must be convinced of the guilt of a defendant beyond a reasonable doubt before he can be convicted.

A defendant has an absolute right not to testify, and the jury may not draw a presumption of guilt or any inference against any defendant because he did not testify.

However, any defendant who wishes to testify is a competent witness, and his testimony should be judged in the same way as that of any other witness.

In determining the degree of credibility that should be accorded by you to a defendant's testimony, you are entitled to take into consideration the fact that he is one of the defendants and the personal interest that he has in the result of your verdict.

Now, we had a number of expert witnesses in this case and in that regard the Court will charge you that the rules of evidence ordinarily do not permit a witness to testify as to his opinions or conclusions. An expert witness is an exception to this rule. A witness who by education and experience has become expert in any art, science, profession or calling may be permitted to state his opinion as to a matter in which he is versed and which is material to the case, and he may also state the reason for his opinion. You should consider such expert testimony received in evidence in this case and give it such weight as you think it deserves.

As I have previously instructed you, the indictment in this case is not evidence of any kind against any of the defendants and does not create any presumption or permit any inference of guilt. It is merely the formal manner by which the Government accuses a person of crime in order to bring him to trial.

The defendants here have answered those charges by pleading not guilty, thus denying that each of them has committed the crimes charged.

You must not be prejudiced against any defendant because an indictment was returned against him.

Statements and arguments of counsel are not evidence. They are only intended to assist the jury in understanding the evidence and the contentions of the parties. During the course of the trial it often becomes the duty of counsel to make objections, and for the Court to rule on them in accordance with the law. You should not consider or be influenced by the fact that objections have been made by either side.

Testimony and exhibits to which the Court has sustained an objection, or which the Court has ordered stricken from the record, do not constitute evidence, and may not be considered by the jury, and particularly in that regard I call your attention to this cone device here which I ordered stricken from the evidence, and it is eliminated for all purposes and should not be considered by you in any respect whatsoever.

Now, the indictment in this case is as follows:

"United States of America v.

Orlando Bosch Avila, a/k/a Ernesto;
Andres Jorge Gonzalez Gonzalez, a/k/a
Bombillo; Barbaro Balan Garcia, a/k/a
Bobby; Marco Rodriguez Ramos, Jesus
Dominguez Benitez, a/k/a El Isleno;
Jose Diaz Morejon, a/k/a Tony Prieto;
Jorge Luis Gutierrez Ulla, a/k/a George
Gutierrez; Paulino Gutierrez, Aimee
Miranda Cruz.

"Indictment

"The Grand Jury charges:

"COUNT I

"That from on or about April 15,
1968, up to and including the date of this
indictment in the Southern District of
Florida and elsewhere the defendants,
ORLANDO BOSCH AVILA, a/k/a Ernesto;
ANDRES JORGE GONZALEZ GONZALEZ, a/k/a
Bombillo; BARBARO BALAN GARCIA, a/k/a
Bobby, MARCO RODRIGUEZ RAMOS, JESUS
DOMINGUEZ BENITEZ, a/k/a El Isleno,
JOSE DIAZ MOREJON, a/k/a Tony Prieto,
JORGE LUIS GUTIERREZ ULLA, a/k/a George

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Gutierrez, PAULINO GUTIERREZ, and AIMEE MIRANDA CRUZ, unlawfully, wilfully and knowingly did conspire with each other, and with divers other persons to the Grand Jury unknown, to violate the laws of the United States, to-wit: Title 18, United States Code, Section 2275, in the manner and by the means hereinafter set forth:

"1. It was the plan of said conspiracy to violate Title 18, United States Code, Section 2275, by knowingly and wilfully causing damage to vessels of foreign registry docked at the Port of Miami, Dodge Island, in the Southern District of Florida, within the jurisdiction of the United States, and elsewhere, by placing explosives in or upon said vessels with the intent of injuring and endangering the safety of the said vessels and their cargo.

"2. It was a part of said conspiracy that the said defendants and co-conspirators would collect money for the purchase of explosives and equipment to be used in the

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placement of said explosives on vessels. As a part of the plan to raise money publicity of the explosions accomplished would be sought.

"3. It was a part of the said conspiracy that the said defendants and co-conspirators would gather explosives and assemble and prepare weapons and other equipment to be used in causing damage to vessels of foreign registry."

No. 4 was withdrawn by the Government.

"5. It was also a part of said conspiracy that said defendants and co-conspirators would fire and cause to be fired a 57 mm. recoilless rifle at a vessel of foreign registry docked at Dodge Island in the Southern District of Florida within the jurisdiction of the United States.

"6. It was a part of said conspiracy that the said defendants and co-conspirators would assemble bombs and cause them to be attached to vessels of foreign registry.

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"In pursuance and furtherance of said conspiracy and to effect the objects thereof the defendants did commit in the Southern District of Florida within the jurisdiction of the United States, and elsewhere, the following overt acts among others:

"1. On or about August 13, 1968, at 1150 S. W. First Street, Miami, Florida, Orlando Bosch Avila and Jose Diaz Morejon, defendants herein, received a package labeled 'Dynamite.'

"2. On or about August 22, 1968, defendants Orlando Bosch Avila, Barbaro Balan Garcia and Jorge Luis Gutierrez Ulla met with Ricardo Morales Navarette at 735 S. W. First Street, Miami, Florida."

No. 3 was withdrawn by the Government.

"4. On or about August 27, 1968, Marco Rodriguez Ramos and Jesus Dominguez Benitez engaged in a conversation with each other at 735 S. W. First Street, Miami,

Florida.

"5. On or about September 15, 1968, Orlando Bosch Avila, Barbaro Balan Garcia, Jose Diaz Morejon and Aimee Miranda Cruz met together at 218 S. W. 16th Avenue, Miami, Florida.

"6. On or about September 15, 1968, Orlando Bosch Avila and Paulino Gutierrez traveled from 1029 S. W. First Avenue to the west end of the MacArthur Causeway in Miami, Florida.

"7. On or about September 16, 1968, Jorge Luis Gutierrez Ulla drove an automobile on and in the vicinity of the MacArthur Causeway in Miami, Florida.

"8. On or about September 16, 1968, Barbaro Balan Garcia and Jose Diaz Morejon fired a 57 mm. recoilless rifle at the vessel SS Polanica at Dodge Island, Dade County, Florida.

"9. On or about September 30, 1968, Orlando Bosch Avila, Andres Jorge Gonzalez Gonzalez, Jose Diaz Morejon, Jorge Luis

Gutierrez Ulla and Paulino Gutierrez attended a meeting of 'Cuban Power' at the Jose Marti Building in Miami, Florida.

"All in violation of Title 18, United States Code, Section 371.

"COUNT II

"On or about September 16, 1968, ORLANDO BOSCH AVILA, BARBARO BALAN GARCIA, and JOSE DIAZ MOREJON, defendants herein, knowingly, wilfully, and unlawfully, and with the intent to injure and endanger the safety of the vessel, SS Polanica, a vessel of foreign registry, to-wit: Poland, did fire a 57 mm. rifle at said vessel, causing an explosive missile to strike the said vessel at Dodge Island, Dade County, Florida, in the Southern District of Florida within the jurisdiction of the United States; in violation of Title 18, United States Code, Section 2275.

"COUNT III

"On or about June 6, 1968, at Miami, Dade County, in the Southern District of

Florida, ORLANDO BOSCH AVILA, wilfully and knowingly through the use of telegraph did convey and cause to be conveyed a threat to Gustavo Diaz Ordaz, President of Mexico, to damage and destroy personal property, to-wit: Mexican ships and planes, for the purpose of interfering with their use for business objectives, and of intimidating persons pursuing said business objectives; in violation of Title 18, United States Code, Section 837(d).

"COUNT IV

"On or about June 6, 1968, at Miami, Dade County, in the Southern District of Florida, ORLANDO BOSCH AVILA, wilfully and knowingly through the use of telegraph did convey and cause to be conveyed a threat to General Francisco Franco to damage and destroy personal property, to-wit: Spanish ships and planes, for the purpose of interfering with their use for business objectives, and of intimidating persons pursuing said business objectives; in

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violation of Title 18, United States Code,
Section 837(d).

"COUNT V

"On or about June 6, 1968, at Miami, Dade County, in the Southern District of Florida, ORLANDO BOSCH AVILA, wilfully and knowingly through the use of telegraph did convey and cause to be conveyed a threat to Sir Harold Wilson, Prime Minister of England, to damage and destroy personal property, to-wit: British ships, for the purpose of interfering with their use for business objectives, and of intimidating persons pursuing said business objectives; in violation of Title 18, United States Code, Section 837(d)."

With respect to the statute in which the defendant Orlando Bosch Avila is accused of violating in Counts III, IV and V of the indictment the statute reads in pertinent part as follows:

"Title 18, U.S.C. § 837(d)

"Whoever, through the use of
telegraph willfully imparts or conveys,

or causes to be imparted or conveyed, any threat, . . . concerning an attempt, or alleged attempt being made, or to be made, to damage or destroy any . . . personal property for the purpose of interfering with its use for . . . business . . . objectives, or of intimidating any person pursuing such objectives, shall be . . ."

guilty of an offense against the laws of the United States.

Therefore, the essential elements of this offense are these:

- (1) Use of the telegraph.
- (2) To willfully impart or convey or cause to be imparted or conveyed.
- (3) A threat concerning or relating to an attempt or alleged attempt being made, or to be made, to damage or destroy any personal property.
- (4) For the purpose of interfering with the property's use for business objectives; or for the purpose of intimidating any person pursuing such objectives.

The Government must prove each of these

elements beyond a reasonable doubt.

The Court instructs you that the act of sending a message by telegram is a use of the telegraph.

The statute forbids use of the telegraph to willfully impart or convey or cause to be imparted or conveyed a certain threat for certain purposes. To impart or convey means to communicate, transmit, transport or carry. The threat must be imparted or conveyed willfully. An act is done willfully if done voluntarily and purposely, with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or disregard the law.

In order to cause another person to do some act it is necessary that the accused knowingly do some act which in the ordinary course of business of some other person, or by reason of the ordinary course of business, results in the doing of the act in question by such person.

A threat is an avowed present determination, or intent to injure presently or in the future, and the fact that the threat is conditioned

upon a possible contingency subject to the maker's control does not deprive it of the quality of a threat. It is the making of the threat, not the intent to carry it out, that violates the law; but the threat must relate to an attempt or alleged attempt being made, or to be made, to damage or destroy personal property. It is immaterial whether the attempt is actually made or actually intended to be made.

Therefore, the Government must prove beyond a reasonable doubt that the accused avowed a present determination or intention to attempt to damage or destroy personal property, either presently or in the future.

The Court instructs you that a vessel is a craft or structure capable of floating and transporting cargo or passengers on water; and, together with its fixtures and necessary parts, is considered personal property.

The term "business objectives," as it is used in the statute, means those objectives or purposes which are commercial in nature; that is, those which relate to mercantile transactions, for

example, commercial transportation of cargo or passengers by vessel.

The threat forbidden by the statute is a threat to damage personal property made either for the purpose of interfering with its use for business objectives, or for the purpose of intimidating a person who is pursuing business objectives.

To interfere is to hamper, hinder, disturb, or intermeddle; and to intimidate is to willfully act in such a manner as to place the victim in such fear of harm as to cause him to relinquish a right or interest.

Therefore, the threat described in the statute is a threat to damage personal property made for the purpose of hampering, hindering, or intermeddling with the use of the personal property for business objectives; or for the purpose of placing a person who is pursuing business objectives in such fear of harm as to cause him to relinquish a right or interest.

The Government need not prove that an alleged threat accomplished either an interference with the use of property for business objectives, or

that any person pursuing such objectives was actually intimidated by the threat. Success of the threat in interfering or intimidating is immaterial, since the offense is complete upon the willful conveyance of it by telegraph.

The statute which the defendants Orlando Bosch Avila, Barbaro Balan Garcia and Jose Diaz Morejon are accused of violating in Count II of the indictment reads in pertinent part as follows:

"Whoever ... does ... any ... act to ... (any vessel of foreign registry) ... while within the jurisdiction of the United States ... with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended / to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom, and whoever attempts to do so shall be ..."

guilty of an offense against the laws of the United States.

Therefore, the essential elements of

this offense are these:

1. The willfull commission of any act.
2. To any vessel of foreign registry while it is within the jurisdiction of the United States.
3. With intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, regardless of where the injury is intended to take place.
4. The statute also forbids an attempt to commit such an act.

The Government has the burden of proving each of these elements beyond a reasonable doubt.

To do an act willfully is to do it voluntarily and purposely, with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or to disregard the law.

The Court instructs you that that part of the high seas within three miles of the coast of the United States or its territories is within its jurisdiction.

The Court takes judicial notice of and instructs the jury that the ports of Miami, Florida, New Orleans, Louisiana, and San Juan, Puerto Rico, are within the jurisdiction of the United States.

A sea-going vessel must be registered under the laws of some nation in order to be entitled to the protection afforded by the laws of the United States.

The Court instructs you that a vessel of foreign registry is one which is registered in a country other than the United States of America.

To violate the statute, the act must be done with intent to injure or danger the safety of the vessel, or of her cargo, or of persons on board. That is, the act must be done with intent to injure the vessel, her cargo, or persons on board, or to endanger the safety of the vessel, or of her cargo or of persons on board.

To endanger the safety of something or someone means to put in jeopardy or danger without actually inflicting injury. The phrase "endanger the safety of" covers cases where do specific injury was done or intended, but only a dangerous condition

created.

Therefore, the statute forbids commission of an act with the intent either to actually injure the vessel, her cargo, or persons aboard; or to create a dangerous condition to any of them without actually causing injury.

It is immaterial whether the injury or danger is intended to take place within the jurisdiction of the United States, or after the vessel has departed therefrom.

In addition to forbidding the actual commission of an act with intent to injure or endanger the safety of the vessel or her cargo, or of persons on board, the statute also forbids an attempt to commit such an act.

To attempt an offense means willfully to do some act, in an effort to bring about or accomplish something the law forbids to be done.

The Court charges you that in a case where two or more persons are charged with the commission of a crime, the guilt of an accused may be established without proof that the accused personally did every act constituting the offense.

Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal.

Whoever willfully causes an act to be done, which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

Every person who thus willfully participates in the commission of a crime may be found guilty of that offense.

In order to aid and abet another to commit a crime it is necessary that the accused willfully associate himself or herself in some way with the criminal venture, and willfully participate in it as he would in something he wishes to bring about; that is to say, that he willfully seek by some act or omission of his to make the criminal venture succeed.

Now, with respect to the first count, the statute which all nine of the defendants are accused of violating in Count I of the indictment reads in pertinent part as follows:

"Title 18, United States Code,
Section 371.

"If two or more persons conspire
to commit any offense against the United
States, and one or more of such persons
do any act to effect the object of the
conspiracy, each shall be guilty of an
offense against the laws of the United
States."

Therefore, with respect to this offense,
the essential elements are these:

1. The existence of the conspiracy
described in the indictment at or about the time
alleged.
2. The defendant's knowing and willfull
membership in the conspiracy.
3. The knowing commission by one of
the conspirators of at least one of the overt acts
charged in the indictment, such act having been
committed in furtherance of some object or purpose of
the conspiracy as charged.

If you find from the evidence that the
existence of the conspiracy charged in the indictment

has been proved beyond a reasonable doubt, and during the existence of the conspiracy one of the overt acts alleged was knowingly done by one of the conspirators in furtherance of some object or purpose of the conspiracy beyond a reasonable doubt, proof of the conspiracy offense charged is then complete; and it is complete as to every person found by you to have been knowingly and willfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators did the overt act.

The Government has the burden of proving each of these elements beyond a reasonable doubt.

A conspiracy exists when two or more persons combine to accomplish some unlawful purpose by concerted action; or to accomplish some lawful purpose by unlawful means. So a conspiracy is a kind of "partnership in criminal purposes," in which each member becomes the agent of every other member. The gist of the offense is a combination or agreement to disobey, or to disregard the law.

Mere similarity of conduct among various persons and the fact that they may have

associated with each other, and may have assembled together and discussed certain aims and interests, does not necessarily establish proof of the existence of a conspiracy.

However, the evidence in the case need not show that the members entered into any express or formal agreement, or that they directly, by words spoken or in writing, stated between themselves what their object or purpose was to be, or the details thereof, or the means by which the object or purpose was to be accomplished, or that every member knew the exact part to be played by other members.

What the evidence in the case must show beyond a reasonable doubt, in order to establish proof that a conspiracy existed, is that the members in some way or manner or through some contrivance, expressly or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan.

The evidence in the case need not establish that all the means or methods set forth in the indictment were agreed upon to carry out the alleged conspiracy; nor that all means or methods which were agreed upon were actually used or put into

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operation; nor that all of the persons charged to have been members of the alleged conspiracy were such.

What the evidence in the case must establish beyond a reasonable doubt is that the alleged conspiracy was knowingly formed and that one or more of the means or methods described in the indictment were agreed upon to be used in an effort to effect or accomplish some object or purpose of the conspiracy, as charged in the indictment; and that two or more persons, including one or more of the accused, were knowingly members of the conspiracy, as charged in the indictment.

It is alleged in Count I that the defendants entered into a conspiracy to violate Title 18, United States Code, Section 2275, the pertinent part of which reads as follows:

Title 18, United States Code, Section 2275.

"Whoever ... places bombs or explosives in or upon (any vessel of foreign registry), or does any other act to or upon such vessel while within the jurisdiction of the United States, ... with intent to injure or

or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom and whoever attempts to do so shall be ..."

guilty of an offense against the United States.

Violation of Title 18, U.S.C., Section 2275, is the offense which is charged in Count II of the indictment, about which I have just instructed you.

The conspiracy charged in Count I is that all the defendants allegedly conspired to do the things forbidden by Section 2275, including but not limited to conspiring to do the acts charged in Count II. It is also alleged in Count I that the defendants further conspired to place, or attempt to place, bombs or explosives in or upon one or more vessels of foreign registry, such vessel or vessels being within the jurisdiction of the United States, with intent to injure or endanger the safety of the

vessel or of her cargo or of persons on board, regardless of whether the injury or danger was intended to take place within or without the jurisdiction of the United States.

In your deliberations on Count I you are to consider whether the alleged conspiracy was formed to do any of the things forbidden by Section 2275, taking into consideration the instructions I have given you on the elements of an offense under that section.

The Court charges you that one may become a member of a conspiracy without full knowledge of all of the details of the conspiracy. On the other hand, a person who has no knowledge of a conspiracy, but happens to act in a way which furthers some object or purpose of the conspiracy, does not thereby become a conspirator.

Before the jury may find that a defendant or any other person has become a member of a conspiracy, the evidence in the case must show beyond a reasonable doubt that the conspiracy was knowingly formed, and that the defendant, or other person who is claimed to have become a member,

willfully participated in the unlawful plan, with intent to advance or further some object or purpose of the conspiracy.

To act or participate willfully means to act or participate voluntarily and intentionally and with specific intent to do something the law forbids; that is to say, to act or participate with the bad purpose to disobey or to disregard the law. So, if a defendant, or any other person, with understanding of the unlawful character of a plan, knowingly encourages, advises or assists, for the purpose of furthering the undertaking or scheme, he thereby becomes a willfull participant--a conspirator.

On the other hand, mere knowledge that an offense is being committed is not equivalent to participation. Nor is mere physical presence by a defendant at a crime sufficient to establish his guilt.

In determining whether or not a defendant or any other person was a member of a conspiracy, the jury is not to consider what others may have said or done. That is to say, the membership of a defendant or any other person in a conspiracy

must be established by the evidence in the case as to his own conduct, what he himself willfully said or did.

In your consideration of the evidence in the case as to the offenses of conspiracy, you should first determine whether or not the conspiracy existed, as alleged in the indictment. If you conclude that the conspiracy did exist, you should next determine whether or not any of the accused willfully became a member of the conspiracy.

If it appears beyond a reasonable doubt from the evidence in the case that the conspiracy alleged in the indictment was willfully formed and that the accused willfully became a member of the conspiracy, either at the inception or beginning of the plan or scheme, or afterwards; and that thereafter one or more of the conspirators knowingly committed, in furtherance of some object or purpose of the conspiracy, one or more of the overt acts charged; then the success or failure of the conspiracy to accomplish the common object or purpose is immaterial.

An "overt act" is an act knowingly

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committed by one of the conspirators in an effort to effect or accomplish some object or purpose of the conspiracy. The overt act need not be criminal in nature, if considered separately and apart from the conspiracy. It must, however, be an act which follows and tends toward accomplishment of the plan or scheme and must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the indictment.

Whenever it appears beyond a reasonable doubt from the evidence in the case that a conspiracy existed and that a defendant was one of its members, then the statements thereafter knowingly made and the acts thereafter knowingly done by any person likewise found to be a member may be considered by the jury as evidence in the case as to the defendant found to be a member, even though the statements and acts may have occurred in the absence and without the knowledge of that defendant, provided such statements and acts were knowingly made and done during the continuance of the conspiracy, and in furtherance of some object or purpose of the conspiracy.

Otherwise, any admission or incriminatory statement made or act done outside of court, by one person, may not be considered as evidence against any person who was not present and heard the statement made, or saw the act done.

You will note that the indictment charges that the alleged offenses were committed "on or about" a certain date. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient, if the evidence in the case establishes beyond a reasonable doubt, that the offense was committed on a date reasonably near the date alleged.

The jury should give separate consideration, and render separate verdicts with respect to each defendant and as to each count. Each defendant is entitled to have his guilt or innocence as to each of the crimes charged determined from his own conduct and from the evidence which applies to him as if he were being tried alone.

If the jury finds that a defendant is guilty beyond a reasonable doubt of any one of the crimes charged in the indictment, a verdict of guilty

should be returned as to him or her. The guilt or innocence of any one defendant of any of the crimes charged should not influence the jury's verdicts respecting the other defendants. The jury may find any one or more of the defendants guilty or not guilty of the offenses with which they are charged.

In arriving at a verdict, each of you must make up your own mind after a consideration of all of the evidence as it is recalled. That consideration should include the opinions of your fellow jurors as well as your own. It is the essence of the jury system that you will listen to the views of one another and that you will do so with open minds and with a disposition to accept the views of the others, if the reasons advanced are persuasive, based on the evidence, and not contrary to the court's instructions on the law.

Any juror, however, who, after such consideration of all of the evidence, comes to a firm conclusion different from the others, should not change that conclusion merely for the sake of conformity or unanimity. You should, however, listen to and consider, with open minds, the views of your

fellow jurors so that, if possible, you may arrive at a unanimous verdict. In this Court, in order to render a verdict in any case, all the jurors must concur.

Upon retiring to the jury room, you will select one of your number to act as your foreman. The foreman will preside over your deliberations and be your spokesman in Court.

Forms of verdict have been prepared for your convenience.

You will take these forms with you to the jury room, together with any or all of the exhibits you desire, and after you have reached a unanimous agreement you will have your foreman fill in, date and sign the form which sets forth the verdict upon which you agree; and then return with your verdict to the courtroom.

There is a separate form as to each defendant, and as to each defendant it relates only as to the particular offense with which he is charged.

As an illustration, with respect to Dr. Bosch, the form of verdict is November blank, 1968.

"We, the jury, find the defendant
Orlando Bosch Avila,"

and, as you will recall, he is charged with five counts. There is a blank line as to Count I, as to Count II, as to Count III, as to Count IV, and as to Count V. You will fill in what your verdict is, guilty or not guilty, in each of those lines, and then you will have your foreman sign on that line.

Then as we go down to the other defendants, a number of them are charged only on one count, and so the form says with respect to that only as to Count 1. As to other defendants that are charged in two counts, and with respect to those particular defendants, the form reads as to Count 1, and as to Count II.

If it becomes necessary during your deliberations to communicate with the Court, you may send a note in writing by the United States Marshal, signed by your foreman. Never attempt to communicate with the Court by any means other than a signed writing, because it becomes a part of the record in the case. And bear in mind that you are not to reveal to the Court or to any person how the jury stands,

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numerically or otherwise, until you have reached a
unanimous verdict.

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Now, ladies and gentlemen, if you will just retire for a few minutes, it will only be a few minutes.

(Thereupon the jury was excused, pursuant to which the following proceedings were had:)

THE COURT: All right, sir. The Court having charged the jury in accordance with the Court's statements as to what the charges would be at the pretrial conference, does the Government have any objections or exceptions?

MR. BIERMAN: Your Honor, we would just point out your Honor taking judicial notice of the different ports. It was our understanding that the Port of Tampa was included in the original listing and it was--

THE COURT: It may have been and I may have or may not have read it.

MR. BIERMAN: It was read on this occasion.

THE COURT: I do not think that is particular material. I think that this jury knows that Tampa is in the jurisdiction of the United States.

MR. BIERMAN: I think so, too.

THE COURT: I think it is conceivable there could be a question with respect to San Juan, but so far as Miami and Tampa are concerned, I do not think that is important enough to do anything about it.

Do you have any further objections or exceptions?

MR. BIERMAN: No, sir.

THE COURT: Does the defendant have any further objections or exceptions as to the charge?

MR. GREENSPAHN: No, sir.

THE COURT: All right, gentlemen. If you will bring the jury back in, please.

But before you do that, however, I want to excuse the two alternate jurors. They are now excused from any further consideration in this case and the Court wants to express the Court's thanks and particularly the thanks on the part of all of the persons who have participated in this trial for your attention and willingness to sit as jurors in this case. But you may now be excused from any further

consideration of this case. Only the twelve regular jurors will retire to the jury room.

(Thereupon at 11:14 a.m., the jury retired to the jury room to deliberate on their verdict.)

THE COURT: The Court will be at ease until we hear something from the jury.

(Thereupon a short recess was taken, pursuant to which at 12:00 o'clock noon, the following proceedings were had out of the presence of the jury:)

25-1 THE COURT: I understand it has been stipulated and agreed between counsel for the United States and counsel for the defendants, Melvyn Greenspahn, that Government's Exhibit No. 90, an excised copy of the transcript which was prepared under the supervision of Mr. Greenspahn and the United States Attorney's office shall be submitted to the jury pursuant to their request.

MR. GREENSPAHN: So stipulated.

MR. BIERMAN: So stipulated.

(Thereupon the hearing was recessed, pursuant to which at 2:55 o'clock p.m., the following proceedings were had out of the presence of the jury:)

THE COURT: Gentlemen, I have received two questions from the jury. The first question is this:

"On Page 5 of Tape 1, does 'Marcellino' refer to Marco Rodriguez Ramos?"

What the jury is apparently talking about, gentlemen, is this portion here on Page 5 where Morales says "And they dumped it right there, Orlando?" and Dr. Bosch is supposed to have said, "Yes, they dumped it right there....the tide went out...and Marcellino went and checked the next day to see more or less..."

They apparently want to know whether this "Marcellino" means Marco Rodriguez Ramos.

MR. GREENSPAHN: It does not, sir.

MR. BIERMAN: We will agree it does not, and the answer is no.

THE COURT: It means a third person

that is not involved in this suit?

MR. GREENSPAHN: Yes, sir.

MR. BIERMAN: That's correct.

THE COURT: The next question is, "Transcript of testimony pertaining to Jorge Gonzalez."

Now, that sounds very simple, but my recollection of the testimony is there are different places through this testimony where there were references or statements pertaining to Jorge.

MR. GREENSPAHN: What was the question?

THE COURT: "Transcript of testimony pertaining to Jorge Gonzalez."

There is not a situation where a jury could come in and say, "We would like to hear certain portions of the testimony of a witness." But I do not know how a request of this kind could be complied with without necessarily going through the entire evidence in the case wherever any reference was made to this particular gentleman.

MR. BIERMAN: There is only one particular point in the testimony which mentions with

some degree of detail in regard to the rebreather.

But other than that--

THE COURT: His name was mentioned a number of times.

MR. BIERMAN: Right.

THE COURT: It was mentioned by different witnesses in different regards, and I would certainly not pick out one part that might be unfavorable to him and possibly leave out something that would be unfavorable to him. I just do not see how, as I say, without an editing, which is impossible, of the entire oral testimony I can give this jury or summarize to this jury what testimony there is relating to that individual, and I propose to tell them just exactly that.

I will be glad to hear any discussion from counsel.

MR. GREENSPAHN: The only point that I would make, Judge Mehrtens, is the point that I have made before or attempted to make and apparently haven't made.

THE COURT: I may not have agreed with you, but you made your point.

MR. GREENSPAHN: Yes, sir.

The defendant Gonzalez has had his name mentioned either as Gonzalez or as Bombillo throughout the course of this, but again I suggest that there is no place that I recall where he was mentioned in a manner that would be incriminating to him as part of any conspiracy. I don't know how to suggest to the Court that it be addressed to the jury except that I think it would be prejudicial to either one or both of the adversaries in this proceeding if any expression were made by the Court, and perhaps the Court's best answer to it would be--

THE COURT: I would not trust my memory and I could not accurately attempt to at this time, to sit here and separate what testimony there is with respect to that particular defendant and who said what and what was said.

MR. GREENSPAHN: That is their function, Judge, and I think that is the way to do it.

THE COURT: I do not see how I can do it. So I am going to tell them that.

MR. BIERMAN: We agree with that.

THE COURT: He was, of course, mentioned,

as I say. Some of it might have been purely coincidental about him being at a particular place or being with somebody, and certainly in the tapes he was mentioned as Bombillo several times. But I do not propose to try to do that, and that is what I am going to tell them--that I just cannot do it. It is up to them and it is their recollection.

MR. GREENSPAHN: You are not going to preface your advice to the jury with the statement that he is mentioned in the tapes? In other words, I think that would be prejudicial to the defendant. They will have a copy of the transcript--

THE COURT: I am not going to tell them that he is mentioned in the case several times. I am just going to tell them--to comply with their request and would have to, in effect, edit the entire testimony in an effort to obtain everything that was said pertaining to him or about him; and that I just cannot do.

MR. GREENSPAHN: I am satisfied with that, your Honor. I think that is a fair way of putting it.

THE COURT: All right, sir. Will you

bring the jury in?

(Thereupon at 3:06 p.m., the jury returned to the courtroom, pursuant to which the following proceedings were had in open Court:)

THE COURT: Gentlemen, I have received two communications from the jury signed by the foreman as follows:

"On Page 5 of Tape 1, does

Marcellino refer to Marco Rodriguez Ramos?"

Ladies and gentlemen of the jury, the answer to that question is no. The Marcellino who is mentioned by name at that portion of the tape is a person completely separate and apart from any of these defendants. And so, Marcellino does not mean or refer to any of the defendants in this case. It refers to a third person.

The second one is "Transcript of testimony pertaining to Jorge Gonzalez."

With respect to that, ladies and gentlemen, in order to comply with that, I would have to, in effect, edit all of the testimony in an effort

to find out what part of the testimony, if any, does pertain to Jorge Gonzalez, and I would have to do it all and it will be basically an impossible job for me to do. The only thing I can tell you is that I cannot give you any transcript of testimony pertaining to that particular individual and that you, as the sole and exclusive judges of the facts, it is your recollection of the testimony as a whole that counts. I just have to leave it up to you. But for me to try to do it, I could not do it. It would mean actually editing every bit of testimony that has been given in this case and trying to separate the testimony. It would just be an impossible job. So I am sorry. I cannot help you.

All right. You may again retire and resume your deliberations.

(Thereupon at 3:09 p.m., the jury retired to the jury room, pursuant to which the following proceedings were had out of the presence of the jury:)

THE COURT: Gentlemen, does the Government have any objections or exceptions to the

additional instructions given by the Court to the jury in response to their questions?

MR. BIERMAN: No, sir.

THE COURT: Do the defendants have any objections or exceptions to the additional instructions as given by the Court to the questions of the jury?

MR. GREENSPAHN: No, sir.

THE COURT: All right, sir.

Gentlemen, we will remain at ease.

(Thereupon a recess was taken, pursuant to which at 3:50 p.m., the jury returned to the courtroom, pursuant to which the following proceedings were had:)

THE COURT: Ladies and gentlemen of the jury, have you reached a verdict?

THE FOREMAN: We have.

THE COURT: Mr. Clerk, will you please receive the verdict from the foreman?

Mr. Clerk, will you please publish the verdict.

THE CLERK: Ladies and gentlemen of the

jury, rise and harken to your verdict.

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal. United States of
America v. Orlando Bosch Avila.
Verdict: November 15, 1968, Miami,
Florida.

"We, the jury, find the defendant
Orlando Bosch Avila guilty as to Count I;
"Guilty as to Count II;
"Guilty as to Count III;
"Guilty as to Count IV; and
"Guilty as to Count V, as charged
in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal. United States of America
v. Barbaro Balan Garcia. Verdict:
November 15, 1968, Miami, Florida.

"We, the jury, find the defendant
Barbaro Balan Garcia guilty as to Count I

and guilty as to Count II as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal, United States of America
v. Jose Diaz Morejon. Verdict: Miami,
Florida, November 15, 1968.

3 "We, the jury, find the defendant
Jose Diaz Morejon guilty as to Count I and
guilty as to Count II as charged in the
indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal. United States of America
v. Aimee Miranda Cruz. Verdict: Miami,
4 Florida, November 15, 1968.

"We, the jury, find the defendant
Aimee Miranda Cruz guilty as to Count I
as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal, United States of America
v. Paulino Gutierrez. Verdict: Miami,
Florida, November 15, 1968.

"We, the jury, find the defendant
Paulino Gutierrez guilty as to Count I
as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal, United States of America
v. Jorge Luis Gutierrez Ulla. Verdict:
Miami, Florida, November 15, 1968.

"We, the jury, find the defendant
Jorge Luis Gutierrez Ulla guilty as to
Count I as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,

LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

Southern District of Florida, Case No.
68-420-Criminal. United States of America
v. Marco Rodriguez Ramos. Verdict:
November 15, 1968, Miami, Florida.

"We, the jury, find the defendant
Marco Rodriguez Ramos guilty as to Count I
as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal. United States of America
v. Jesus Dominguez Benitez. Verdict:
Miami, Florida, November 15, 1968.

"We, the jury, find the defendant
Jesus Dominguez Benitez guilty as to
Count I as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

"United States District Court,
Southern District of Florida, Case No.
68-420-Criminal. United States of America
v. Andres Jorge Gonzalez Gonzalez.

Verdict; November 15, 1968, Miami,
Florida.

9 "We, the jury, find the defendant
Andres Jorge Gonzalez Gonzalez guilty as
to Count I as charged in the indictment.

"So say we all.

"(Signed) B. H. VanBuren, Foreman."

THE COURT: Do any of the defendants
desire a poll of the jury's verdict as read?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right, Mr. Clerk.
Will you please proceed to poll the jury as to each
and every defendant.

(Thereupon the jury was polled,
pursuant to which the following
proceedings were had:)

THE COURT: Is counsel satisfied
with the poll of the jury?

MR. GREENSPAHN: Yes, sir.

THE COURT: Ladies and gentlemen of
the jury, before discharging you, I want to express
the gratitude and the appreciation of the Court for
your willingness to serve and for the diligence with

which you did serve and the care and attention that you gave to the evidence as it was received. I am truly grateful to you and want to thank you for it.

I think that for most of you who have not served on a jury before you have found it troublesome and tiresome at times, but it is really an interesting experience. Without people such as you, of course, the Court would be unable to proceed; because you, as jurors, are as much a part of the Court as the judge, the clerk, the court reporter or any of the lawyers. You are an essential part in the administration of justice, and only by having people such as you does it mean that we can maintain the principles upon which this country was founded. Without you, of course, this case would have never been tried or adjudicated, and I do want to express my thanks and appreciation to you.

We just hate to really make you work like we do, but we have to do it in order to get things done. We hate to make you sit around at times, but it is not because we are just sitting around. We are tied up with something else. Although I have kept you here long hours, I have been here myself from

between ten minutes of eight and eight o'clock in the morning until after you have been discharged. So it takes a lot of time and it requires an effort on the part of everybody in the matter.

You may now be excused with the thanks of the Court from any further service as jurors.

Thank you very, very much for your service.

(Thereupon the jury was excused, pursuant to which the following proceedings were had:)

THE COURT: Orlando Bosch Avila, upon the rendition of a verdict by the jury adjudging you guilty as to Counts I, II, III, IV and V as charged in the indictment, the Court now adjudges you guilty as to Counts I, II, III, IV and V as charged in the indictment.

(Through the Interpreter) Barbaro Balan Garcia, upon rendition of a verdict by the jury adjudging you guilty as to Counts I and II as charged in the indictment, the Court now adjudges you guilty as to Count I and Count II as charged in the indictment.

(Through the Interpreter) Jose Diaz Morejon, upon the rendition of a verdict by the jury adjudging you guilty as to Count I and Count II as charged in the indictment, the Court now adjudges you guilty as to Count I and Count II as charged in the indictment.

(Through the Interpreter) Aimee Miranda Cruz, upon the rendition of a verdict by the jury adjudging you guilty as to Count I, the Court now adjudges you guilty as to Count I as charged in the indictment.

Paulino Gutierrez, upon the rendition of a verdict by the jury of guilty as to Count I of the indictment, the Court now adjudges you guilty as to the offense charged in Count I of the indictment.

Jorge Luis Gutierrez Ulla, upon the rendition of a verdict of guilty by the jury as to Count I as charged in the indictment, the Court now adjudges you guilty of the offense charged in Count I of the indictment.

Marco Rodriguez Ramos, upon the rendition of a verdict of guilty by the jury of the offense charged in Count I of the indictment, the

Court now adjudges you guilty of the offense charged in Count I of the indictment.

Jesus Dominguez Benitez, upon the rendition of a verdict of guilty of the offense charged in Count I of the indictment, the Court now adjudges you guilty of the offense charged in Count I of the indictment.

Andres Jorge Gonzalez Gonzalez, upon the rendition of the verdict of guilty by the jury adjudging you guilty of the offense charged in Count I of the indictment, the Court now adjudges you guilty of the offense charged in Count I of the indictment.

Now, Mr. Interpreter, if you will repeat this out loud so that all of the defendants, the people who do not speak English, can hear it, it is the order of the Court that imposition of sentence be deferred and that this matter or these matters be referred to the probation officer for pre-sentence investigation.

I will permit the defendants to remain at liberty on bond as now set. However, I want counsel--and you had better interpret this to them--about being on bond. You have an obligation to appear

at any time ordered by the Court. And should you fail to do so you will have committed a separate felony for which you could be sent to the penitentiary for five years. And that is separate and apart completely from anything that has to do with this case.

Do you all understand?

(The defendants indicate
in the affirmative.)

THE COURT: I have ordered that all the bonds shall continue in the same amount. Those that are out on bond shall continue to be at liberty on bond in the amount and on the conditions as heretofore set. Those who are not out on bond, the same bond will be effective if and when it is made.

All right, gentlemen. Is there anything else?

MR. BIERMAN: We would ask permission of the Court to substitute photostats for certain originals in evidence. I think Mr. Greenspahn wanted to do that with certain exhibits, also.

THE COURT: Either counsel may substitute for original documents photostatic copies of the documents as long as they are accurate photostatic

legie copies for use for appellate purposes.

Court will be in recess until Monday
mornng.

(Thereupon at 4:30 p.m., the
trial of the above-entitled
matter was concluded.)

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LEONARD LAIKEN

OFFICIAL COURT REPORTER

U. S. DISTRICT COURT

MIAMI, FLORIDA 33101

CERTIFICATE

STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

I, LEONARD LAIKEN, Official Court Reporter,
do hereby certify that the foregoing transcript,
Page 1 through 1472-A, contains a true and correct
transcription of my stenotype notes as taken by me
of the proceedings before the Honorable W. O.
MEHRENS, United States District Judge, at the times
and place aforesaid.

Dated at Miami, Florida, this 24th day of
March, 1969.

Official Court Reporter

LEONARD LAIKEN
OFFICIAL COURT REPORTER
U. S. DISTRICT COURT
MIAMI, FLORIDA 33101